

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

BROGDON ET AL., PLAINTIFFS : 4:23-CV-00088-CDL
VS. : FEBRUARY 14, 2025
FORD MOTOR COMPANY, DEFENDANT : COLUMBUS, GEORGIA

TRANSCRIPT OF JURY TRIAL: VOLUME X OF X
BEFORE THE HONORABLE CLAY D. LAND,
UNITED STATES DISTRICT JUDGE

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8:31:41AM 1

--- PROCEEDINGS ---

2 Friday, February 14, 2025 08:31:03

3 COURT SECURITY OFFICER: All rise, the United States
4 District Court for the Middle District of Georgia is now
5 session. Please be seated.

6 THE COURT: Please be seated. A couple of things I
7 needed take up before we get started. One of our Jurors
8 Rosalie Thomas had taken her husband to the hospital last
9 night with chest pains, and he has been admitted to the
10 hospital. She nevertheless is here, but obviously would
11 rather not be given that her husband is in the hospital with
12 what they thought last night was an emergency situation. I am
13 inclined to excuse her but I want to get input from counsel
14 for both sides to as to whether they have an objection to me
15 excusing her.

16 MR. BUTLER: No objection. I totally agree Your
17 Honor.

18 THE COURT: Does the Defendant object or not?

19 MR. PEELER: Can we talk for just a moment?

20 THE COURT: Yes.

21 MR. PEELER: Thank you.

22 MR. BUTLER: Your Honor, will we do a brief opening
23 statement I guess?

24 THE COURT: I hadn't thought we needed one. Do you
25 all think you need one?

9:04:26AM 1

MR. BUTLER: I need one.

2

MR. PEELER: We need a brief one also.

3

COURT SECURITY OFFICER: She's Juror Number 6.

4

THE COURT: What's the position of the Defendants?

5

MR. EADY: Your Honor, we would like to have the

6

same 12 deliberate together because it is a phase two. And in

7

the phase one, all of them deliberated and came to that

8

conclusion that we should be here today, so we object.

9

THE COURT: That's really shocking to me that Ford

10

Motor Company would not understand the situation with a juror

11

whose husband has been taken to the hospital for an emergency

12

heart problem and then she nevertheless as part of her duty as

13

an American citizen comes here this morning after having been

14

in the hospital all night and is willing to serve. And Ford

15

Motor Company is going to want to put something in the record

16

as an objection so that if something goes wrong on appeal,

17

there will be another argument to be made on appeal.

18

MR. EADY: We withdraw the objection, Your Honor.

19

We have no problem with the juror being excused.

20

THE COURT: All right. I am going to go tell her

21

that I appreciate her being here and that's she's excused.

22

I'll be right back.

23

[RECESS]

24

Okay, I am going to bring them down here in a

25

minute. First of all, let's put on the record what the

9:08:04AM 1 Claimants are doing with regard to their claim for attorneys
2 fees.

3 MR. BUTLER: Your Honor, we apologize to the Court
4 for taking up the Court's time last night with that issue. I
5 don't want to use the T-word but it's possible that all
6 members of the Plaintiffs team suffered from that malady. It
7 took me just one drink last night to realize that we didn't
8 need to be, Number two, we didn't need to be doing something
9 that would give Ford something to complain about on appeal.
10 But number one, we didn't need to be talking about attorneys
11 fees in a phase II, that ought to be totally focused on the
12 amount of punitive damages. So that's why we withdrew it.
13 Again, we apologize to the Court for wasting the Court's time
14 last night with that hour-long debate about it.

15 THE COURT: All right, so the attorneys fees claim
16 is no longer in the case.

17 Just so the record is clear Plaintiffs are not
18 waiving their right to cost under Rule 54.

19 MR. LOWREY: That's correct, Your Honor.

20 THE COURT: All right, okay, bring them down.

21 MR. EADY: Your Honor, Ford has just one issue.

22 THE COURT: Yes, sir.

23 MR. EADY: We filed a couple additional requests for
24 Jury instructions.

25 THE COURT: When?

9:09:22AM 1

MR. EADY: This morning.

2

THE COURT: Okay, go ahead. I haven't seen them.

3

Just leave them out and don't bring them in yet.

4

MR. EADY: Your Honor, may I tender them to the

5

Court?

6

THE COURT: Yes, sir. What time did you file them?

7

MR. EADY: This morning around --

8

MR. BUTLER: I think it was 7:36, Your Honor, or

9

6:37 maybe I am dyslexic about the numbers.

10

THE COURT: Pass them up, I'll take a look at them.

11

Just pass them up, I don't need to decide on them until I

12

charge the Jury. I am not going to make a decision on them

13

now.

14

MR. BUTLER: Mr. Prather confirms it was 7:36 a.m.

15

Your Honor.

16

THE COURT: All right, I have got them and I'll take

17

a look at them. And I'll make a decision on them before

18

charging the Jury.

19

MR. LOWREY: We would certainly want to be heard.

20

THE COURT: Yes, sir. Bring them down.

21

[JURY ENTERS COURTROOM]

22

THE COURT: Okay, ladies and gentlemen welcome back.

23

Happy Valentine's Day, you probably didn't know you were

24

going to be here on Valentine and your Valentine probably

25

didn't know you were going to be here either, but here we are.

9:12:16AM 1 This next phase the focus is going to be on the
2 amount of punitive damages. The Plaintiffs have decided not
3 to pursue their claim for attorneys fees so the only issue in
4 this phase is going to be punitive damages and not attorneys
5 fees.

6 I'm going to allow the lawyers to give a short
7 opening statement where they tell you what they think the
8 evidence is going to show in this phase. And then they will
9 have a chance to put up evidence. And then they will come
10 back with closing argument and I will give you instructions on
11 the issue of the amount. Then you will go back and deliberate
12 in this phase two. Mr. Butler.

13 OPENING ARGUMENTS

14 MR. BUTLER: Thank you, Your Honor. Ladies and
15 gentlemen first, let me say, thank you for that verdict
16 yesterday. Last night I slept eight hours straight for the
17 first time in at least two months. I hope that's not going to
18 cause me to talk too much today. Happy Valentine's Day to you
19 all. My wife and I didn't realize it was Valentine's Day
20 until we each had two cups of coffee this morning we've been
21 so focused on this case.

22 I first want to say that I keep reading over the
23 verdict because I wrote down as the Judge read it in green on
24 my copy of the verdict, what you all did and there was a lot
25 of thought that went into that verdict and we appreciate it.

9:13:32AM 1 Like Judge Land told you at the beginning of the trial the
2 jury system works. I've been doing this 48 years and it
3 continues to amaze me how well it works. Almost never does it
4 fail and we certainly thank you for that verdict and we thank
5 you for the time that you spent.

6 Judge Land just told you we dropped the claim for
7 attorneys fees. There's a good reason for that. The focus in
8 phase two ought to be on Ford Motor Company, not us, not the
9 lawyers. It ought to be on just Ford Motor Company, just Ford
10 Motor Company. How much is enough to stop it? You only get
11 one shot. So that's what we want to focus on. The evidence
12 will be brief. We've got Joshua Brooks, Dr. Joshua Brooks,
13 who is the Economics Professor at Columbus State University
14 coming in to tell you about Ford's resources; what they've
15 got. And I'm going to call Mr. Eikey back to the stand and
16 ask him some questions we think is pertinent to the amount of
17 punitive damages that are necessary to stop it.

18 I do want to say that everything you've heard in
19 phase one is still part of your deliberations and for you to
20 consider. But I also want to say that the decisions that you
21 had to make in phase one are over. If anybody disagreed or is
22 reticent a little bit about what you all did last night,
23 yesterday evening that's over. Now we turn with a new chapter
24 we're turning to the amount of punitive damages.

25 I've been wrestling last night and this morning with

9:15:18AM 1 this thought about fairness and since this part of the case
2 focuses on Ford, the question of fairness to Ford, I haven't
3 been able to sort out in my own mind what to say about that
4 except to ask you to remember how fair Ford was to Herman and
5 Debra Mills who had no clue about how dangerous the truck that
6 Ford sold to them really was. Ford didn't tell them, Ford
7 hasn't told anybody, Ford has never warned anybody -- instead
8 Ford to this day -- about a roof that's been subject to wrecks
9 with similar roof crush since 1999; that's 26 years ago. Ford
10 is still saying this roof is, "absolutely safe". I will talk
11 more about that in closing.

12 The fact that Debra and Herman didn't know cost them
13 their lives. Remember on the issue of the amount of
14 Mr. Herbst PowerPoint 50 OSIs, Judge Land let us put in 50
15 OSIs, other similar incidents. Ask yourself where is Ford's
16 list. And whether or not anybody from Ford really came before
17 you in phase one to deny what Mr. Herbst told you that each
18 one of these 50 involved the same failure modes, same failure
19 points as the familiar points and failure modes of Mr. and
20 Mrs. Mills' truck, mainly the header. I will talk more about
21 the header in closing argument.

22 For Ford Motor Company to have ever said this roof
23 was, "absolutely safe" was hideous. For Ford Motor Company to
24 still say that is a monstrous lie so you've got to ask
25 yourself at this point in the trial; what's it going to take?

9:17:31AM 1 What's it going to take? This absolutely safe stuff may be
2 the best evidence of what you need to know when you come to
3 evaluate how much is enough.

4 Your attention now turns to the purposes of punitive
5 damages, which you heard yesterday and I think you'll hear it
6 again in the Court's charge; which is to punish and deter.
7 Punish refers to the past. Deter refers to the future. Deter
8 means literally stop it; that's what punitive damages are for.

9 We will ask you to find an amount that ensures that
10 the Ford Motor Company never forgets the names of Herman Mills
11 and Debra Grubbs Mills. Thank you very much.

12 THE COURT: The Defendant may give an opening.
13 Mr. Peeler.

14 MR. PEELER: Thank you, Your Honor. You've spoken.
15 While this isn't the outcome that Ford wanted I suspect it's
16 also not the outcome that the family wanted. They've lost
17 their parents. But Ford respects your decision; that's the
18 way the judicial system works. We all respect that. Ford
19 also respects the fact that you've taken two weeks off from
20 work and away from your family to serve as jurors. Thank you
21 for your service.

22 You haven't heard much from me in this trial. My
23 name is Charlie Peeler. I live in Atlanta now, but I raised
24 my family in Albany, Georgia. I'm in a tough spot. I'm not
25 here to talk you out of your verdict; that's done. You've

9:19:20AM 1 compensated the family for the passing of Mr. and Mrs. Mills,
2 but I am here to ask you to consider some things when you're
3 deciding what a fair amount of punitive damages is. Let's
4 talk a minute about what we can expect in phase two.

5 In determining a fair amount of punitive damages
6 Judge Land is going to tell you to consider all of the
7 evidence, the aggravating, which is making something severe;
8 and the mitigating, making something less severe. In this
9 phase Mr. Butler's going to focus on the aggravating factors.
10 As you can imagine, I am going to focus on the mitigating
11 factors.

12 I don't expect we will call any witnesses in phase
13 two. I will probably have some questions to ask of the
14 witnesses that Mr. Butler calls. But you've already heard a
15 lot of testimony that I'm going to highlight as the mitigating
16 factors. The hard work that Ford's engineers put into this
17 truck. The safety features that were incorporated into this
18 truck. I'll talk more about that in my closing.

19 I anticipate that he's good at it. He's been
20 practicing over 40 years. I anticipate Mr. Butler's going to
21 try to get you really mad in this phase two at Ford Motor
22 Company. I think he's going to try to do it in two ways.

23 First, I think he's going to criticize Ford for not
24 having a corporate executive at this trial. But I will remind
25 you that Ms. Wright was upfront about that during jury

9:20:56AM 1 selection. She asked jurors to raise their hand if Ford not
2 having a corporate executive at this trial meant that a juror
3 couldn't be fair to Ford. And also recall there were three
4 former Ford employees who did testify at this trial about the
5 issues in this case.

6 Second, I believe Mr. Butler's going to talk about
7 how much money Ford Motor Company makes. Ford is a big
8 company and it's not going to surprise you that over the years
9 Ford has sold billions of dollars of products, but when I
10 stand up and close -- in my closing argument -- I'm going to
11 go into more detail about what the law allows you to consider
12 in determining what a fair amount of punitive damages is.

13 Thank you.

14 THE COURT: Mr. Butler, call your first witness.

15 MR. PHILYAW: At this time Plaintiffs called
16 Dr. Joshua Brooks.

17 JOSHUA BROOKS

18 Whereupon, witness having been duly sworn,

19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. PHILYAW:

22 Q Thank you, Your Honor, good morning ladies and gentlemen
23 Dr. Brooks where do you live?

24 A I live here in Columbus Georgia.

25 Q What is your occupation?

9:23:04AM 1 A I have an associate professor of finance.

2 Q How long have you've been an associate Professor at

3 finance?

4 A Just a few years, I got tenure just a few years ago.

5 Q Where's your tenure at?

6 A Columbus State University.

7 Q The Jury may have picked up on this but I am referring to

8 you as doctor, does that mean that you have a Ph.D.?

9 A Yes, sir.

10 Q What is your Ph.D. in?

11 A My Ph.D. is in finance.

12 Q Where did you earn that from?

13 A The University of Alabama.

14 Q Just so the Jurors have a clear idea from the outset why

15 you are here today what do you intend to provide opinions

16 about this morning?

17 A I was asked to provide opinions about the financials of

18 Ford.

19 Q Briefly how would you summarize that opinion?

20 A They're a very large company with revenues in the

21 hundreds of billions of dollars, profits in billions of

22 dollars and are listed amongst the 500 largest firms by

23 Market cap in the world.

24 Q Before we get into the details of your opinions and

25 analysis, I would like to back up and tell the Jurors a

9:24:12AM 1 little bit more about your education and your background
2 experiences. Did you obtain a bachelor's degree?
3 A Yes, sir.
4 Q Where was that from?
5 A From Union University.
6 Q What did you get your bachelor's degree in?
7 A General engineering with an emphasis at mechanical
8 engineering.
9 Q Do you have a master's degree?
10 A Yes, sir.
11 Q What's your master's degree in and where is it from?
12 A I have a Masters in finance from the University of
13 Alabama.
14 Q Did you have any special track that you were on during
15 your Masters' studies?
16 A I specialized in the quantitative track for a while it
17 was called the financial engineering track and then it
18 shifted to being called the risk management track.
19 Q When you say quantitative is that mean it involves a lot
20 of calculation?
21 A Yes, sir.
22 Q What kinds of classes did you take when you were doing
23 that Masters work?
24 A I took classes in corporate finance. I took several
25 classes where I learned stochastic calculus and computer

9:25:06AM 1 programming to apply advanced financial modeling.

2 Q And then you went on to the University of Alabama and got

3 your Ph.D; right?

4 A Yes, sir.

5 Q What was your dissertation on at the University of

6 Alabama?

7 A My dissertation was on -- it was titled, Three Essays and

8 Investments and Time Series Econometrics, it was an

9 application of essentially rocket science math to

10 investment problems.

11 Q Just so that we understand I don't know what econometrics

12 means; can you explain that to us a little bit more?

13 A In economics and finance often you can't have repeatable

14 experiments like you can have in sciences, and so there's

15 a specialized set of statistical tools that are used in

16 that space.

17 Q After you earned your Ph.D. when did you first begin your

18 career in academia?

19 A I earned my Ph.D. in 2015, but I had started working as a

20 professor the year before as I finished my dissertation.

21 Q And that was at the University of Alabama?

22 A Yes, sir, the Ph.D. was earned at the University of

23 Alabama and I started my career at a state school in

24 South Carolina called Lander University.

25 MR. BUTLER: Slow down a little bit, I'm having a

9:26:22AM 1 hard time keeping up with you; what University?

2 THE WITNESS: Lander University.

3 BY MR. PHILYAW: Resuming.

4 Q How long were you at Lander University?

5 A I was there for three years.

6 Q Where did you go after Lander University?

7 A Columbus State University.

8 Q What year was that approximately?

9 A 2017.

10 Q So you've been at Columbus State for a little over seven
11 years?

12 A Yes, sir.

13 Q What classes have you taught at Columbus State
14 University?

15 A I've taught the business statistics course, the intro to
16 finance course, I've taught a course in advance financial
17 statement analysis, I regularly teach a course in real
18 estate, and a course in insurance and enterprise risk
19 management.

20 Q When you say advanced financial statement analysis does
21 that mean you're reviewing financial statements from
22 companies?

23 A Yes, sir.

24 Q And teaching students how to review those statements?

25 A Yes, sir.

9:27:24AM 1 Q Have you published any works or papers while you've been
2 at CSU?

3 A Yes, sir, I've published several Peer Review Journal
4 articles.

5 Q Have you given any sort of presentations during that time
6 as well?

7 A I've presented at several conferences.

8 Q In addition to your day job as a Professor of Finance do
9 you do any other types of work?

10 A I have for several years been the scientific adviser for
11 Fintech startups and occasionally I do work like this.

12 Q And in your consulting work have you been asked to
13 evaluate the financial condition of companies like Ford
14 Motor Company before?

15 A I have.

16 Q And in that work do you often have reason to review a
17 company's financial documents?

18 A Yes.

19 Q Do you review financial documents of corporations on a
20 regular basis?

21 A Yes, sir.

22 Q Is that's something you do all the time in your work?

23 A In a class I teach every semester I give a project where
24 the students are each assigned a publicly traded company
25 and I teach them how to do the financial statement

9:28:30AM 1

analysis and then review their work.

2 Q What kinds of financial statements do you look at when
3 you are looking at a publicly traded company?

4 A Typically we look at the 10-K, which is an annual
5 statement for the company.

6 Q Just so the Jurors are clear, 10-K, is that an
7 abbreviation or some sort of code for a report?

8 A The Securities and Exchange Commission has a legal
9 requirement that all companies file this if they're
10 publicly traded.

11 Q When you say the Securities and Exchange Commission, the
12 United States Securities and Exchanged Commission, or the
13 SEC, for short, right?

14 A Yes, sir.

15 Q In the course of your career would you be able to
16 estimate how many 10-Ks or financial reports of companies
17 that you've reviewed?

18 A It is certainly in the hundreds, possibly in the
19 thousands.

20 MR. PHILYAW: Your Honor, at this time we would
21 tender Dr. Brooks as an expert in Financial Statement Analysis
22 and Evaluation, Financial Engineering and Applied
23 Econometrics?

24 MR. PEELER: No objection.

25 THE COURT: You may give opinion testimony in those

9:29:37AM 1

areas.

2 BY MR. PHILYAW: Resuming.

3 Q Dr. Brooks before we get into your opinions in those
4 specific areas we've heard from a lot of experts over the
5 last couple of weeks who have testified at trials and
6 depositions many times.

7 How long have you been doing consulting work?

8 A It's on and off, I've been doing it since I was in
9 grad-school.

10 Q Do you have an estimate of how many times that you've
11 been deposed or testified at trial?

12 A Less than ten.

13 Q Have you worked with me and the Butler Prather Firm
14 before?

15 A Yes, sir.

16 Q Do you recall how many cases you've testified for our
17 firm or for clients of our firm before?

18 A Just one.

19 Q Dr. Brooks, what is your hourly rate in this case?

20 A \$400 an hour.

21 Q To the best of your knowledge is that a reasonable and
22 customary hourly rate for consulting work in your field?

23 A Being newer in this space, it's at the LOWER end for
24 what's customary.

25 Q All right Dr. Brooks, let's get into your work in this

9:30:48AM 1

case; tell the Jury about what you do?

2 A I did the standard set of analysis for a publicly traded
3 company, I pulled the annual financial statements, I
4 reviewed other documents like proxy statements or reports
5 to shareholders, but everything in my report came from
6 the SEC required documents.

7 Q Was that so that you could form certain opinions about
8 Ford's overall financial health and condition?

9 A Yes, sir.

10 Q Those documents, what particular documents are you
11 relying on for your opinions today?

12 A For my report I look at the annual statements over a
13 four-year period and then the quarterly statement that
14 was most recently available when my report was due.

15 Q When you say the annual statements you're referring to
16 that 10-K, that you told us about earlier?

17 A Yes, sir.

18 Q What's the code for a quarterly statement that is filed
19 with the SEC?

20 A 10-Q.

21 Q These are documents that are maintained by the Securities
22 and Exchange Commission?

23 A Yes, sir.

24 Q Are they publicly available?

25 A Yes, sir. You can go on SEC.gov in the database is

9:32:05AM 1

called Edgar, where you can search for any publicly traded company and find financial statements and other disclosures that are required by the regulatory commissions.

2
3
4
5 Q Since they are required who prepares these documents?

6 A These are prepared by the firms that are required to file them.
7

8 Q So in this case if Ford filed a 10-K, or 10-Q, with the SEC, it would be prepared by Ford and its representatives; is that right?
9
10

11 A Yes, sir.

12 Q Are there any sort of certification requirements that are associated with a 10-Q or a 10-K form?
13

14 A There are.

15 Q Are they required to be certified by officers of the company?
16

17 A Yes, sir.

18 Q Why would members of the public or investors be interested in looking at a 10-K or a 10-Q form?
19

20 A If you can buy shares in a company, it makes sense that you have a right to know about the financials of that firm and that's some of the reasoning behind why this is required.
21
22
23

24 Q What years of 10-K forms did you study in this case?

25 A The most complete year that was in my report was 2022,

9:33:18AM 1

and I went four years back from there, so '21, 2020,
2019.

2

3

Q Is that because your report for this case was due in
February of 2023 --

4

5

A Yes, sir.

6

Q -- or 2024, excuse me. When are annual statements from
companies usually released?

7

8

A Typically for the year they are released a few months
later, so February 6th was when the last annual report
was issued by Ford and that was for the calendar year
which matches the fiscal year of 2024.

10

11

12

Q When you say February 6th, you mean Ford's most recent
report for its activities last year was just released a
couple days ago; is that right?

13

14

15

A Yes, sir.

16

17

Q Have you looked at Ford's most recent financial
statement?

18

19

Q Would anything in its most recent financial statement
cause you to reconsider any opinions that you formed in
looking at its past financial statements?

20

21

22

A No, sir.

23

24

Q Dr. Brooks, we've talked a little bit about a 10-K form,
I would like to help orient the Jurors as to some of the
information that is contained in those forms so that they

25

9:34:35AM 1

understand what's in them.

2

Pull Plaintiffs' Exhibit 755, please.

3

Dr. Brooks do you recognize this document?

4

A Yes, sir.

5

Q What are we looking at here?

6

A This is an attestation by the SEC that this is the

7

official 10-K for 2019 filed 2020.

8

MR. PHILYAW: Your Honor, at this point I would
tender for illustrative purposes Plaintiffs' Exhibit 755?

10

THE COURT: It's admitted for that purpose.

11

MR. PEELER: Your Honor, may I object. Ford has
previously objected as to the relevance of financial
information that is far beyond the product at issue in this
case.

15

THE COURT: That objection is made and overruled.

16

BY MR. PHILYAW: Resuming.

17

Q Dr. Brooks as we're looking at this form here you said
this is an attestation from the Securities and Exchange
Commission does it reflect when this particular 10-K form
was filed with the SEC?

20

21

A Yes, sir.

22

Q When was this form filed?

23

A February 5th, 2020.

24

Q Right here?

25

A Yes, sir.

9:36:01AM 1 Q In the bottom right-hand corner is it certified by anyone
2 from the SEC?
3 A Yes, sir.
4 Q Who does it say it is certified by?
5 A The Secretary.
6 Q That's down here, right?
7 A Yes, sir.
8 Q Let's go to the next page please.
9 Dr. Brooks, can you orient us to what we're looking
10 at on this page?
11 A This is the cover page for the 10-K form.
12 Q Is there information about when this form was filed or
13 for what fiscal year it is for?
14 A Near the top you can see December 31, 2019.
15 Q So that reflects this form was for the year 2019 and
16 Ford's overall information from that year; is that
17 correct?
18 A Yes, sir.
19 Q Does it say who this report is submitted by?
20 A Yes, sir.
21 Q Is it Ford Motor Company?
22 A Yes, sir.
23 Q Dr. Brooks is there other information on this page, just
24 the front page, that tells you about the financial
25 condition of Ford Motor Company?

9:37:22AM 1 A There's a little bit in the footnotes toward the bottom
2 that talk about the value of all the Company's stock.

3 Q What does the value of the Company stock have to do with
4 understanding its overall financial condition or value?

5 A Firms will have assets, those are things they own, and
6 they will have liabilities, things that they owe.

7 Markets are constantly updating their valuation of a firm
8 through time as new information comes out. And so you
9 see here toward the bottom as of January 31, 2020, the
10 value of the stock was -- we have the number of shares
11 and then the very end of that paragraph we have the value
12 of the stock was \$34,345,770,156.

13 Q I want to unpack a little bit of what you just said for
14 the Jurors, because I think there are a couple of
15 concepts that need to be clear. I've heard things talked
16 about in terms of market value and book value of Ford,
17 can you explain to us what market value is?

18 A Market value is how much you can sell something for
19 immediately at current market prices.

20 Q Is that often reflected perhaps by the stock price of a
21 company or its market capitalization?

22 A Yes, sir.

23 Q What is market capitalization?

24 A Market capitalization is the amount of money you would
25 need to buy all of the outstanding stock at the current

9:39:01AM 1

price.

2 Q Is that what's reflected by that number that you've
3 highlighted for the Jury here?

4 A It is as of that date. Market prices are constantly
5 updating, every second, every fraction of a second, every
6 day.

7 Q So that would be what we would call the market value.
8 What would be the book value, can you define that for us?

9 A The book value shows up much later in the financial
10 statements and that's based on the retained earnings of
11 the firm and the price of stock, when it was issued
12 either initially or later on.

13 Q Is there a basic way of calculating book value?

14 A It's typically a requirement to be reported on these
15 forms in the Balance Sheet.

16 Q Is that commonly understood as perhaps assets minus
17 liabilities?

18 A Yes, sir.

19 Q Let's continue on our tour of this 10-K form here.

20 PDF Page 178, please. Blow this up for the Jurors.

21 Dr. Brooks what are we looking at here on this page?

22 A This is the certification by the CEO of Ford that
23 everything in this document is correct.

24 Q What does it say in Line 2?

25 A The information contained in this report fairly presents

9:40:21AM 1 in all material respects the financial condition and
2 results of the operations of the company.

3 Q As you said, it is signed by the Chief Executive, James
4 P. Hackett?

5 A Yes, sir.

6 Q Let's go to the next page. Is this another certification
7 that's required in the 10-K?

8 A Yes, sir, this is from the Chief Financial Officer.

9 Q What does this say on Line 2?

10 A The information contained in this report fairly presents
11 in all material respects the financial condition and
12 results of operations of the company.

13 Q PDF page 4, please. Dr. Brooks, we're looking at the --
14 is this the table of contents for the 10-K form?

15 A Yes, sir.

16 Q There's a lot of information that's contained in a 10-K
17 form; is that right?

18 A Yes, sir.

19 Q What kind of information is contained in a 10-K?

20 A We have an overview of the different types of business
21 for the firm, there's risk factors, other disclosures
22 related to properties they may own, or International
23 exposures.

24 We have the registration for stock and then selected
25 financial data and often with that data there's a wide

9:41:37AM 1

variety of notes in this area we chose this set of
accounting standards and so on.

2

3

Q WILL the company often give statements about its business
operations?

4

5

A Yes, sir.

6

Q Will the company include consolidated financial
statements?

7

8

A They do.

9

Q Does the 10-K also include who the executive officers of
the company are?

10

11

A It does.

12

Q PDF Page 176, please -- actually, let's go to the
previous page before this one -- no, let's go to the
previous page, I'm sorry.

13

14

15

Okay, Dr. Brooks what are we looking at here on this
page of the 10-K?

16

17

A So this is consent of independent registered public
accounting firm.

18

19

Q Are 10-K forms often -- who are they put together by?

20

A It's a wide variety of people even industry contacts I
know who contribute to their firm's 10-K, they only
contribute a few pages, it takes a large group of people
especially for a firm as large as this to assemble all of
the information and present in a consolidated manner.

21

22

23

24

25

Q Is it fair to say that several or perhaps lots of people

9:43:20AM 1 at Ford Company would be working on a document like this?

2 A Yes, sir, both at Ford and outside of Ford to have

3 independent audits ensure everything is appropriately

4 tracked and correct.

5 Q And they might retain an outside accounting firm to help

6 them do that; is that right?

7 A Yes, sir.

8 Q Let's go to Page 99, please.

9 Dr. Brooks are there certain financial statements

10 within the 10-K that help provide an overview of the

11 company's financial health?

12 A The three financial statements that provide a good

13 overview are the income statement, and that is for the

14 year, what is all the revenue that came in, what are the

15 expenses associated with that revenue, the Balance Sheet

16 shows at the end of the year how much was in different

17 investments or different liabilities of the firm, and

18 then this is the statement of cash flows that shows how

19 money was moving from one area to the next.

20 Q And the numbers in this table, how are they expressed?

21 A You will see right near the top in parenthesis, for

22 instance, the first number, the \$7757 is in millions, so

23 that is \$7 billion.

24 Q So, basically you multiply that number by a million, is

25 that right?

9:44:50AM 1

A Yes, sir.

2

Q Dr. Brooks in the course of your review of Ford's financial statements which you said you looked at from years 2019 through 2022, did you compile certain pieces of that financial data that you felt would be helpful to the Jurors when forming their opinions about the financial health of Ford Motor Company?

3

A Yes, sir.

4

Q Did you create a copy of those notes, or a presentation with those notes?

5

6

A Yes, sir.

7

Q Pull up Plaintiffs' Exhibit 743.2 please.

8

9

All right Dr. Brooks is this the chart that you prepared in the course of analyzing Ford Motor Company's financial statements?

10

11

A Yes, sir.

12

13

MR. PHILYAW: Your Honor, I would tender at this time, Plaintiffs' Exhibit 743.2, as an illustrative exhibit to show the Jurors.

14

15

MR. PEELER: Same objection.

16

17

THE COURT: That objection is overruled and it is admitted as an illustrative exhibit.

18

BY MR. PHILYAW: Resuming.

19

20

Q Before we get into the details of this chart Dr. Brooks were you able to ascertain what the main sector of Ford's

9:46:43AM 1 business is when you looked at this 10-K?

2 A Yes, sir.

3 Q When you looked at those 10-Ks what did you find that the

4 main sector of its business was?

5 A The manufacture and sale of vehicles.

6 Q So most of these figures that we see here are derived

7 from its business in the automotive industry?

8 A Yes, sir.

9 Q Can you explain to us generally what you have compiled in

10 this chart?

11 A I wanted to pull out some measures of cash flows for the

12 firm and then also some measures of value, and then

13 cumulatively measure the profits and the dividends paid

14 out over this period time.

15 Q Are these some of the information that you thought would

16 be most helpful for the Jury?

17 A Yes, sir.

18 Q You said that the first category is cash flow measures;

19 what are cash flow measures?

20 A Every firm has a variety of cash flows and in this

21 instance I used total revenue, so for everything that

22 they sell the money coming in the door and then that's

23 also compared to costs and expenses, so the raw

24 materials, the labor costs and things like that, and then

25 net income is net of all other expenses tied to revenue

9:47:58AM 1 so we have Taxes, depreciation, and other things like
2 that.

3 Cash dividends is money that goes out the door of
4 the firm to their stockholders.

5 Q The first category you have under cash flow measures is
6 total revenue. What is total revenue mean?

7 A Total revenue is all of the different funds that come in
8 either through the sale of vehicles or other lines of
9 business without any of the costs taken out.

10 Q What does it reflect it was for the years 2019 through
11 2022?

12 A On average the total revenue was \$144 billion dollars and
13 several hundred million.

14 Q Now the next category that you have here is costs and
15 expenses; is that what would cost Ford to do its
16 business?

17 A Yes, sir.

18 Q What were Ford's cost and expenses for those years?

19 A On average of \$142 billion dollars.

20 Q And when we take those two does that result in that
21 operating income that is listed below?

22 A Yes, sir.

23 Q How about net income; what's net income?

24 A Net income will also have other expenses like interest
25 paid on debt and corporate Taxes.

9:49:22AM 1

Q What was Ford's average net income for these years?

2

A Over these years the average net income was

3

three-and-a-half-billion-dollars.

4

Q Dr. Brooks it looks like in some of these years Ford had

5

profits as much as 17 billion; is that right?

6

A Yes, sir.

7

Q Or net income as much as 17 billion; is that right?

8

A Yes, sir.

9

Q There are also years where Ford had a negative net

10

income; can you explain why Ford might have a negative

11

net income for a year?

12

A We have lived through these years and so you can see the

13

effects of COVID happening; and then there was some

14

supply chain issues in 2022 that also really impacted

15

markets along with rising interest rates.

16

Q Can a company sometimes have a negative net income from

17

things like mismanagement?

18

A Sure.

19

Q The last category you have over here is cash dividends.

20

Can you explain to us again what cash dividends are?

21

A The investors in the firm are expecting to earn some

22

return either in the appreciation of the stock price, of

23

the stock price going up; or being paid out of the

24

profits of the firm. And so this is the dollars in a

25

given year that went to the investors in cash dividends.

9:50:44AM 1

Q What was the average amount that Ford was paying to its investors each year during these years?

2

3

A The average amount there was about \$1.3 billion dollars and the total amount was 5 billion over these four years.

4

5

Q This year, the top number you have is the average, and then in the cumulative would be the total amount that it paid out to its investors during that time, is that right?

6

7

8

9

A Yes, sir.

10

11

12

13

Q Dr. Brooks I have another question for you about that, why is it that a company like Ford would pay out money to its investors in years where it had a negative net income?

14

15

16

17

A There's a level of confidence there for the business that not only can they pay out dividends in a year where they had negative net income but also that they will continue to be able to operate as a firm without those funds.

18

19

Q Does that reflect that Ford would be fairly confident in its financial outlook in the years to come?

20

21

22

Q Let's go down to the next category of value measures, can you tell the Jury what value measures are?

23

24

25

A For a given year some of these are as simple as how much money would be in your bank account. You are not looking at the funds that flowed in or out, but just what is the

9:52:03AM 1 total amount there. So this is a snapshot of the overall
2 the firm at the end of the fiscal year.

3 Q The first category you have under these value measures is
4 something called cash and cash equivalents; what is that?

5 A This is essentially a bank account. You can think of it
6 as cash that is readily available to be used for any
7 purpose by the company.

8 Q What are Ford's cash and cash equivalents over these four
9 years?

10 A On average they keep \$22 billion dollars of cash
11 available at all times.

12 Q Dr. Brooks the wreck that we were here for in this case
13 happened in 2022; what was the cash and cash equivalents
14 that Ford had in 2022?

15 A \$25 billion dollars in cash.

16 Q The next category is total assets; can you explain what
17 total assets are?

18 A When you're running a business, businesses typically need
19 to purchase things, property, plant equipment, inventory,
20 total assets reflects the accumulation of all of that
21 from an accounting standpoint, based on when you
22 purchased the assets and any accumulated depreciation
23 over the years.

24 Q In layman's terms, it is everything that Ford owns; is
25 that fair?

9:53:29AM 1

A Yes, sir.

2 Q What were Ford's total assets over this period of time?

3 A On average the total assets were \$259 billion.

4 Q To be fair Ford didn't just have assets, right, it also
5 had liabilities; is that the next category below?

6 A Yes, sir.

7 Q Tell us about Ford's liabilities during this time?

8 A On average their liabilities were if we round up,
9 \$221 billion in liabilities.

10 Q If we were to subtract the total assets from the year
11 minus the total liabilities would that result in what you
12 told us was that book value earlier on?

13 A Yes, sir.

14 Q For the year 2022 when this wreck occurred could we look
15 at these two numbers here?

16 A Yes, sir.

17 Q So the book value of Ford would be \$255 billion, minus,
18 \$212 billion, roughly; is that right?

19 A Yes, sir.

20 Q I will pull out my handy-dandy phone calculator. Would
21 that be roughly \$43 billion dollars?

22 A Yes, sir.

23 Q The next category that you have under value measures is
24 market capitalization; is that what we we're talking
25 about earlier when you were mentioning things about the

9:54:54AM 1 stock price of Ford?

2 A Yes, sir.

3 Q Can you tell us what is explained in your chart here
4 about market capitalization?

5 A Over these years the average market capitalization for
6 the firm was \$41.5 billion dollars.

7 Q As you said that's something that changes over time;
8 right?

9 A Yes, sir.

10 Q So the Market cap would fluctuate from day-to-day, or
11 hour-to-hour, or minute-to-minute?

12 A Yes, sir.

13 Q The last category that you have is enterprise value; what
14 is enterprise value?

15 A In many cases the market value of the firm will deviate
16 from the accounting value of the firm, and so this is a
17 measure of the value of the firm as a whole, so the
18 entire business. You do this by taking the market
19 capitalization plus the liabilities and then you subtract
20 cash because cash isn't actively invested in any of the
21 assets.

22 Q Why is enterprise value a good indicator about a
23 company's financial condition?

24 A It captures the market value affect, the fact that these
25 prices are fluctuating all the time and the market's

9:56:05AM 1 valuation of the firm is fluctuating all the time too.

2 Q The last category that you have on this of chart is

3 something called cumulative measures, and explain what

4 you've done by compiling this section of the chart?

5 A What I wanted to do is show how much in profits Ford had

6 accumulated over these years in total versus just an

7 average.

8 Q So what was the total net income that Ford made during

9 this four-year period, from 2019 to 2022?

10 A Over this four year period they made \$14,724,000,000 in

11 profits.

12 Q What was the total amount that Ford paid out in cash

13 dividends to its investors during this four-year period?

14 A Over these years they paid out \$5,397,000,000.

15 Q Dr. Brooks you also told Jurors earlier that you looked

16 at 10-Q forms, or quarterly reports available that Ford

17 Motor Company made available to the public, is that

18 right?

19 A Yes, sir.

20 Q Did you look at those quarterly reports that Ford made

21 available into 2023?

22 A I did.

23 Q Did you also prepare a chart with those numbers?

24 A Yes, sir.

25 Q Page 4 -- or page 3, please.

9:57:33AM 1 Dr. Brooks are these numbers categorized in the same
2 form that you had them for the yearly reports?
3 A Yes, sir.
4 Q It says here that this is the Ford Financials through
5 September 30th, 2023, what do you mean when you're
6 saying that?
7 A Quarterly statements they typically will show for the
8 three months that had passed what has happened, and then
9 they will show the nine months, and so here I have the
10 first nine months of fiscal year 2023.
11 Q This was available when you were compiling your report?
12 A Yes, sir.
13 Q We have the cash flow measures that you told us about
14 here, again. Can you walk us through what those cash
15 flow measures were in the third quarter of 2023?
16 A In this year the total revenue for those first nine
17 months was \$130 billion dollars.
18 The costs and expenses rounded up would be
19 \$126 billion dollars for an operating income of
20 \$5.7 billion dollars, and in that year so far their
21 profits came out to \$4.8 billion dollars and they had
22 paid \$4.4 billion in dividends to their investors.
23 Q That was through the first three quarters of 2023?
24 A Yes, sir.
25 Q How about the value measures; can you tell us about

9:58:58AM 1

those?

2 A At this point in time as of the filing of the report they
3 had \$26 billion dollars in cash, total assets of
4 \$268 billion dollars, liabilities of \$223 billion, their
5 Market cap, when I was preparing the report was
6 \$41 billion dollars and an enterprise value of
7 \$239 billion.

8 Q So at this point if we're looking at Ford Motor Company's
9 book value, we said at the year end of 2022, it was
10 \$43 billion, if we looked at their total assets and
11 liabilities with the book value of Ford, it would be
12 approximately \$45 billion at this point in time?

13 A Yes, sir.

14 Q Now Dr. Brooks we have talked about these 10-K Forms in
15 bulk; how large are they?

16 A They can be fairly large, there's a lot of different
17 information in there about many different aspects of the
18 business, and so sometimes they can be hundreds of pages
19 long.

20 Q That would be hundreds of pages for every single year?

21 A Yes, sir.

22 Q Did you review Ford's 10-Ks for every single year?

23 A I did, but given my experience I'm able to find the
24 information I need faster than going page by page.

25 Q Are there certain sections that based on your experience

10:00:31AM 1 you know are more important due to evaluating a firms
2 financial condition than others?
3 A Yes, sir.
4 Q Would it be fair if someone came up here and started
5 quizzing you about a line on one particular page of these
6 hundreds of pages of reports?
7 A I'm not blessed with a photographic memory.
8 Q Dr. Brooks, so the Jurors understand, have you ever
9 drafted a 10-K form before?
10 A No, sir.
11 Q Why not?
12 A It is typically teams of people that put this thing
13 together and it would be a single person putting
14 something together for an entire publicly traded company.
15 Q No one person ever writes a form 10-K report; is that
16 right?
17 A I've never heard of that before.
18 Q The fact that you've never drafted or contributed to the
19 drafting of a 10-K; does that prevent you from being
20 unable to read it?
21 A Certainly not.
22 THE COURT: Did you say prevent him from being
23 unable to read it; is that what you meant?
24 MR. PHILYAW: Yes.
25 THE COURT: Prevent him from being unable to read

10:01:42AM 1 it?

2 MR. PHILYAW: Prevent you from being able to read
3 it?

4 THE COURT: Start over.

5 MR. PHILYAW: Yes, thank you, Your Honor.

6 BY MR. PHILYAW: Resuming.

7 Q The fact that you have not drafted a 10-K report, Dr.
8 Brooks, does that mean that you are unable to read it?

9 A I am able to read the report.

10 Q All right Dr. Brooks, bottom line, what do you think are
11 some of the most informative numbers that the Jury should
12 consider about Ford Motor Company?

13 A In my mind thinking about the value of an enterprise as a
14 whole, so the enterprise value would be one, and then the
15 market capitalization is the other.

16 That takes out anything that is owed by the firm and
17 markets are very, very good at efficiently pricing
18 companies, those would be the two key numbers in my mind.

19 Q After you reviewed these 10-K reports does Ford's
20 financial information reflect that it is a large company?

21 A Yes, sir.

22 Q Does it reflect that it is in good financial condition?

23 A Yes, sir.

24 MR. PHILYAW: Your Honor, at this time Plaintiffs
25 would tender into evidence Plaintiffs' Exhibit 755-A, 756-A,

10:03:04AM 1 757-A, 758-A, 759, those are excerpts of the four Ford Form
2 10-K reports, for the years 2019 through 2022, as well as the
3 10-Q through Q-3, of 2023 that Dr. Brooks reviewed.

4 THE COURT: 755-A, 756-A, 757-A --

5 MR. PHILYAW: 758-A, 759.

6 THE COURT: So there's no 757?

7 MR. PHILYAW: It should be an A, 757-A.

8 THE COURT: Okay. So, there's five of them?

9 MR. PHILYAW: Yes, Your Honor.

10 MR. PEELER: We object to the relevance of that
11 information, that it doesn't relate to the product at issue in
12 the case, we also object on the Constitutional grounds of our
13 prior objection.

14 THE COURT: All right those objections are noted,
15 but overruled, those exhibits are admitted.

16 MR. PHILYAW: Dr. Brooks, those are all of my
17 questions at this time.

18 THE COURT: Cross-examination Mr. Peeler.

19 CROSS EXAMINATION

20 BY MR. PEELER:

21 Q Good morning.

22 A Good morning.

23 Q Your hired by the Plaintiffs; is that right?

24 A Yes, sir.

25 Q You're charging for your time when your here?

10:04:43AM 1 A Yes, sir.

2 Q Now Ford is a public company; right?

3 A Yes, sir.

4 Q So a family doesn't own Ford Motor Company at this time;

5 right?

6 A Do you mean a single family owning all of the company?

7 Q Right. The reason I ask it that way is of course we know

8 that early in Ford's beginnings everybody has heard the

9 name Henry Ford; right?

10 A Yes, sir.

11 Q And he owned the company; right?

12 A Yes, sir.

13 Q Before it was a public company?

14 A Yes, sir.

15 Q But at this point Ford is a public company and its owners

16 are its shareholders; right?

17 A Yes, sir.

18 Q Those shareholders take lots of various forms; isn't that

19 right?

20 A Yes.

21 Q It's individuals who may own just a couple of shares?

22 A Yes, sir.

23 Q And it's pension funds that fund retirements for teachers

24 and stuff like that; right?

25 A Yes, sir.

10:05:45AM 1 Q It's also really rich people who own a large number of
2 shares of Ford; right?
3 A It could be.
4 Q And it's pension funds that fund government retirements
5 too; isn't it?
6 A Yes, sir.
7 Q And the performance of that stock matters to the
8 shareholders; correct?
9 A Certainly.
10 Q As you told us earlier the performance of that stock
11 depends on how much money Ford Motor Company makes;
12 right?
13 A Yes, sir.
14 Q Now, Ford sells lots of products all over the world
15 doesn't it?
16 A Yes.
17 Q And of course it sells in the United States; right?
18 A Yes, sir.
19 Q And it sells in Europe?
20 A Yes, sir.
21 Q Asia?
22 A Yes, sir.
23 Q South America?
24 A Yes, sir.
25 Q Australia; correct?

10:06:28AM 1

A Yes, sir.

2 Q And Ford tracks its sale by market; right?

3 A Yes.

4 Q In fact in the 10-K that you look at, right there on
5 Page 4, right at the beginning it breaks down the sales
6 by market; doesn't it?

7 A Yes, sir.

8 Q So you can just look on Page 4 and you can say how many
9 products does Ford sell in the US as compared to
10 Australia; can't you?

11 A Yes, sir.

12 Q Anybody reading the 10-K can see that; right?

13 A Yes.

14 Q When you were preparing your expert report and you were
15 preparing the cash flow measures, the value measures the
16 cumulative measures, you took into account the sale of
17 Ford products all over the world; didn't you?

18 A Yes, sir.

19 Q You did not limit it only to the United States; did you?

20 A It would be difficult to do that because the financials
21 are not necessarily broken up in all the categories by
22 those different market sectors.

23 Q Let's take a look at Page 4 of the 10-K, this Page Ford
24 says right there, the United States sales; doesn't it?

25 A Yes, sir.

10:09:01AM 1 Q So it's broken out; isn't it?

2 A This is by units, not necessarily in dollars and I would

3 also lack the other items that would match those by

4 market.

5 Q You're saying that you can't look at the 10-K and tell

6 what Ford sales are in the United States?

7 A I can get an estimate of the sales in that market, but

8 not some of the other metrics that were used in my

9 analysis.

10 Q Right, but you didn't look at I guess all I'm asking is

11 you didn't look at the sales specific to the United

12 States; right?

13 A Yes, sir.

14 Q You know Ford tracks that information of course?

15 A I sure would expect so.

16 Q And you never asked for that information; did you?

17 A It's understanding that that would be from the firm that

18 I worked for to ask for that.

19 Q But did you ever ask the firm that you work for, you're

20 talking about the lawyers; right?

21 A Yes, sir.

22 Q Did you ever ask the lawyers, can I look at and see what

23 Ford sales were in the United States?

24 A That seemed beyond the scope of what I was asked to do.

25 I was asked to opine on the financial condition of Ford,

10:10:19AM 1

and so that is where my analysis was centered.

2

Q We can probably short circuit this, you weren't asked to look at the sales of Ford in the United States; right?

3

4

A No, sir.

5

Q That's beyond the scope of what you were asked to do?

6

A Yes, sir.

7

Q Ford also tracks its sales -- now Ford sells lots of products so, cars, trucks, vans, for example; right?

8

9

A Yes, sir.

10

Q And you were not asked to look at only -- and of course Ford tracks the sales of those products by category; right?

11

12

13

A Yes, sir.

14

Q You were never asked though to track the sales of products by truck category; were you?

15

16

A No, sir.

17

Q Excuse me?

18

A No, sir.

19

Q Now, Ford also within the truck category sells lots of different kinds of trucks, right, F150s, F250s, Rangers for example?

20

21

22

A Yes, sir.

23

Q And Ford tracks the sales of the specific models of trucks that it sells; doesn't it?

24

25

A I would think so.

10:11:28AM 1 Q You know that information is available right? I should
2 ask it this way, you know Ford tracks that information?
3 A I would expect them to.
4 Q You were not asked to look at that information; correct?
5 A Yes, sir.
6 Q Ford also sells a couple of different brands Ford and
7 Lincoln; right?
8 A Yes, sir.
9 Q You were never asked to look at only Ford not Lincoln;
10 right?
11 A That's correct.
12 Q But the sales of all of the -- in your revenue line that
13 you looked at in your report, that includes the sales all
14 over the world of all different types of vehicles by both
15 brands, Ford and Lincoln; right?
16 A Yes, sir, along with all the associated costs and the
17 balance sheet for Ford as a whole.
18 Q We will talk about the expenses too.
19 Looking at your report, Mr. Philyaw walked you
20 through a few of the charts in there, so I want to -- can
21 we pull up the chart on Page 2 of the report, please.
22 Blow that chart that is under analysis there. Just a
23 couple questions about what's reflected in here.
24 First let me ask you this, did you look at Ford's
25 financials from 2009 to 2016?

10:13:13AM 1 A No, sir.

2 Q Did anyone tell you that the product that the vehicle

3 that is at issue in this case is Model years 2009 through

4 2016?

5 A I feel like I had maybe seen that in the complaint.

6 Q But you didn't ask to look at those years of financials;

7 correct?

8 A I was not asked to look at those years.

9 Q You were not asked to look at those years; right?

10 A Yes, sir.

11 Q And you didn't ask to look at those years; is that right?

12 A In my role I try to stick within what I'm asked to do.

13 Q You did what you were told to do?

14 A Within the scope of my professional experience.

15 Q Just a couple of questions about costs and expenses I

16 think you mentioned that the costs and expenses include

17 things like salaries; right?

18 A Yes, sir.

19 Q It includes things like the purchase of raw materials

20 steel and wire and all of that stuff; right?

21 A Yes, sir.

22 Q It includes research and development?

23 A Yes, sir.

24 Q It includes money that is spent on safety innovation;

25 doesn't it?

10:14:32AM 1

A Yes, sir.

2

Q Now I want to look at the net income that's the one that -- so that's revenue minus expenses; right, that's net income?

3

4

A Yes, sir.

5

Q Do you agree that in the years that you did look at, '19 through '22, and even '23, there's good years and bad years; right?

6

7

A Certainly.

8

Q So Ford has to plan on good years and bad years; right?

9

A Yes, sir.

10

Q One way to do that is to make sure that you've got a rainy day fund; right?

11

12

A Yes, sir.

13

Q Because in those lean years you better come up with money to pay all of those expenses that are in the second line of your report; right?

14

15

A Yes, sir.

16

Q That's good management; right?

17

A Yes, sir.

18

Q That's one reason why I think you testified that Ford is a sound company; correct?

19

20

A Yes, sir.

21

Q Now let's talk about the cash dividends line here.

22

Cash dividends, that's money that Ford pays back to

10:15:45AM 1 it's share holders; right?

2 A Yes, sir.

3 Q And Ford has a pretty good track record of doing that;

4 doesn't it?

5 A They do.

6 Q In fact in the years where Ford lost money like 2020 and

7 2022 even though it lost money it took some of that rainy

8 day fund and it paid it back to its investors; didn't it?

9 A It did pay the investors, the source of cash I would have

10 to go into more detail.

11 Q But you know it wasn't from that year, right, because

12 they lost money in that year; right?

13 A There's a wide variety of ways you can generate cash to

14 pay out.

15 Q They had access to cash and they paid it out; right?

16 A Yes, sir.

17 Q That's because the investors in Ford they rely on that

18 dividend; don't they?

19 A They make.

20 Q Now you know that they do; don't you?

21 A There are a publicly traded firms that pay no dividends

22 and there's a wide variety of dividend payout strategies

23 in finance and a wide variety of investment strategies

24 that rely on more higher dividend yield stocks versus low

25 dividend yield stocks.

10:17:02AM 1 Q And so one factor that an investor considers when
2 purchasing stock, does it pay a dividend, what's a track
3 record payment dividend, and how much is that dividend;
4 fair?
5 A Yes, sir.
6 Q Now can you go to the next Page of the report please and
7 highlight that top chart.
8 At the time you did this report the most recent
9 financial information that had been reported was in the
10 2023 10-Q; right?
11 A Yes, sir.
12 Q So this is here in this chart is the third quarter of
13 2023; right?
14 A Yes, sir.
15 Q And you relied on this information in forming your
16 opinion that Ford is a sound company; right?
17 A Yes, sir.
18 Q Let me make sure that I understand what's reflected in
19 this chart so, the net income for that third quarter of
20 2023 was \$4,873,000,000; right?
21 A Yes, sir.
22 Q And the cash dividend -- so the money that was paid out
23 to the shareholders was \$4,593,000,000 dollars; right?
24 A Yes, sir.
25 Q So in that quarter Ford returned to its shareholders

10:18:29AM 1

almost all of its net income; didn't it?

2 A The way you phrase that is not all the way correct. So
3 this is cumulative for the nine months ending in the
4 third quarter of 2023.

5 Q Thank you, so in the first nine months of the year Ford
6 returned to its shareholders in cash dividends almost all
7 of its net income over that same time period?

8 A Yes, sir.

9 Q Now take a look, there's another chart right below that,
10 undervalue measures could you blow that up.

11 I want to make sure I understand what's reflected in
12 this chart. That time top line there, cash and cash
13 equivalents, that's Ford's rainy day fund; right?

14 A There are wide variety of uses for cash at their
15 corporate level.

16 Q Do you agree with me that one of those uses is a rainy
17 day fund?

18 A Yes, sir.

19 Q So let's just look at 2019, the cash and cash equivalents
20 that Ford had on hand as reported to the SEC was
21 \$17,500,000,000; right?

22 A Yes, sir.

23 Q Go back one Page, Jeff, and highlight that cash flow
24 measurement again, chart.

25 In that same year Ford's expenses meaning the money

10:19:58AM 1 that it took to run Ford was \$155 billion dollars; right?

2 A Yes, sir.

3 Q So in 2019, Ford didn't have but hardly 10 percent in a

4 rainy day fund to fund its operations for the entire

5 year; right.

6 A Yes, sir.

7 Q So it doesn't sit on anywhere close to what it takes to

8 run the company; fair?

9 A You're asking me if they keep it cash a whole year's

10 record of costs and expenses, they do not.

11 Q They do not, they keep about 10 percent, give or take?

12 A The corporate policy for many of the years I looked at is

13 to target keeping cash of \$20 billion dollars or more.

14 Q And that's good management; you would agree with that?

15 A Sure.

16 Q Let me just check my notes real quick.

17 MR. PEELER: Those are the questions that I had,

18 thank you.

19 THE COURT: Any redirect, Mr. Philyaw?

20 MR. PHILYAW: Very briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. PHILYAW:

23 Q Dr. Brooks I would like to go over a few things that

24 Mr. Peeler talked with you about to try to clear up a few

25 comments that he made about Ford during this

10:22:56AM 1 cross-examination.

2 Mr. Peeler asked you a question implying that the
3 Ford family was part of the past of Ford; are you aware
4 if members of the Ford family still serve on Ford's Board
5 of Directors?

6 A Yes, sir, I saw this on some of the proxy statements and
7 other items.

8 Q Pull up Plaintiffs' Exhibit 758, please, would you go to
9 PDF Page 108.

10 MR. PHILYAW: Your Honor, we would tender this for
11 purposes of an illustrative exhibit at this time as well.

12 THE COURT: Same objection --

13 MR. PEELER: I don't think it's an illustrative
14 Exhibit he testified, yes, so it doesn't refresh his
15 recollection, everyone knows there's only one Ford family
16 member on the board.

17 THE COURT: 758 you just want to put up that one
18 Page?

19 MR. PHILYAW: Yes, Your Honor.

20 THE COURT: You can show the page to the Jury while
21 you question him as an illustrative exhibit.

22 MR. PHILYAW: Thank you, Your Honor.

23 BY MR. PHILYAW: Resuming.

24 Q Mr. Peeler said there's only one Ford family member on
25 the Board. Doctor Brooks who is the director and

10:24:21AM 1

chairman of the Board?

2 A William Clay Ford Junior.

3 Q Is there another director from the Ford family?

4 A Henry Ford, the third.

5 Q These are people who are serving on the Board in 2022?

6 A Yes, sir.

7 Q Dr. Brooks, Mr. Peeler asked you if you had looked at
8 Ford's financial information for the years 2009 to 2016,
9 do you remember that?

10 A Yes, sir.

11 Q He implied that you were told to do certain work in this
12 case.

13 Is it fair to say that more recent financial
14 information is better at giving an idea of a company's
15 current financial condition?

16 A I think about it this way, if I had to consider the value
17 of a company I would much rather have the information
18 from last year versus two decades ago.

19 Q Mr. Peeler used the words rainy day fund a lot.

20 In review of your -- in your review of the 10-K
21 statements did you see what kind of revenues Ford was
22 pulling in every single year?

23 A Yes, sir.

24 Q Pull up Plaintiffs' exhibit 743.2, which is Dr. Brooks
25 chart again.

10:26:03AM 1

Was Ford having any rainy day years during the course of 2019 through 2022 in terms of the revenues that it was pulling in?

4 A No, sir.

5 Q What were the revenues that Ford was pulling in?

6 A In 2020, \$127,000,000,000 in revenue.

7 In '22, \$158,000,000,000 in revenue.

8 Q Dr. Brooks, is it fair to say that a firm's overall financial condition is not merely reflected by its operations in a single country?

11 A Yes, sir.

12 Q You were asked questions about Ford's truck sales, Dr. Brooks, you are a financial expert, you are not a truck sales expert; right?

15 A Yes, sir.

16 Q If Ford wanted to it could've brought someone to talk about its trucks sales; isn't that right?

18 A Yes, sir.

19 Q You requested any information related to Ford's truck sales, do you remember being asked questions about that?

21 A Yes, sir.

22 Q Dr. Brooks are you aware that Plaintiffs did ask Ford for that information?

24 A I have some vague recollection of that.

25 Q And that Plaintiffs got that information from Ford?

10:27:48AM 1

A I don't remember that.

2 Q Let me see if I can refresh your recollection.

3 Dr. Brooks I am showing you Plaintiffs' Exhibit 1-A,
4 Dr. Brooks, what does this information say about Ford
5 Motor Company -- scratch that.

6 Let's show the whole page.

7 What does this say at the top of the document, Dr.
8 Brooks?

9 A Ford Motor Company Brogdon v. Ford, information request.

10 Q Does this document reflect Ford's trucks sales?

11 A Yes, sir.

12 Q Does this document reflect Ford's profit before Taxes for
13 truck sales in a range of years?

14 A The profit before tax here is \$12,479,000, 000.

15 Q What years is that for?

16 A '99 to 2009.

17 Q Is that just related to sales of the Super Duty trucks?

18 A Yes, sir.

19 Q How about for the years 2010 through 2016; what were
20 Ford's profits before Taxes the years 2010 through 2016
21 for the Super Duty trucks?

22 A \$12,884,000,000.

23 Q Does it reflect information about how much Ford was
24 making per truck during those years?

25 A Yes, sir.

10:29:32AM 1

Q How much was Ford making for trucks from '99 to 2009?

2 A We have the profit per unit there for the first set of
3 years and the second set of years, so, \$3000 per unit
4 from '99 to 2009.

5 Q How about Ford's profit per trucks in the US, from 2010
6 to 2016?

7 A \$7000, almost \$8000.

8 Q And that's for every single truck sold during those
9 years; right?

10 A Yes, sir.

11 Q Does it also reflect what Ford's sales of the truck were
12 in total, how many wholesale units were sold?

13 A Yes, sir.

14 Q And how many units did Ford sell from 1999 to 2016?

15 A 5-and-a-half-million.

16 Q Does it reflect how many trucks of the Super Duty trucks
17 were sold in Georgia?

18 A Yes, sir.

19 Q How many were sold in Georgia?

20 A 156,000.

21 Q What were the profits before Taxes that Ford made by
22 selling the Super Duty trucks in Georgia?

23 A \$695,000,000.

24 THE COURT: That exhibit was never tendered.

25 MR. PHILYAW: Your Honor, at this time we tender

10:30:54AM 1 Plaintiffs' Exhibit 1-A.

2 MR. PEELER: Same objection as earlier on relevance,
3 Your Honor.

4 THE COURT: That objection is overruled, it's
5 admitted, P-1-A.

6 MR. PHILYAW: Thank you, no further questions, thank
7 you, Your Honor.

8 THE COURT: Recross?

9 MR. PEELER: One question.

10 RECROSS EXAMINATION

11 BY MR. PEELER:

12 Q In your expert report that you were asked to prepare and
13 that you were paid to prepare, you never considered the
14 sales of trucks or the sales of trucks in Georgia;
15 correct?

16 A Yes, sir.

17 Q Thank you.

18 THE COURT: All right, sir, you're excused, you may
19 step down.

20 Call your next witness.

21 MR. BUTLER: I call Mr. Chris Eikey, Your Honor.

22 THE COURT: Mr. Eikey?

23 We will take a 15 minute break, not discuss the case
24 during the break, in recess for 15 minutes.

25 Friday, February 14, 2025 08:20:47

10:32:22AM 1 [RECESS]

2 Friday, February 14, 2025 08:20:47

3
4 COURT SECURITY OFFICER: All rise, this Honorable
5 Court is once again in session.

6 THE COURT: Bring the Jury down. all right Mr. Eikey
7 I remind you that you're still under oath from the other day
8 and if you would just -- so it will be on the record go ahead
9 and state your name again for the record.

10 THE WITNESS: Sure, my name is Chris Eikey.

11 CHRIS EIKEY

12 Whereupon, witness having been duly sworn,

13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BUTLER:

16 Q Mr. Eikey have you seen any employees of Ford Motor
17 Company in the courthouse here today?

18 A I have not, no.

19 Q Have you seen any employees of Ford Motor Company at the
20 Indigo Hotel where you all are staying?

21 A No, I have not.

22 Q Would you agree with me that you weren't in here when
23 Mr. Peeler cross-examined Dr. Brooks but would you agree
24 with me that Ford Motor Company could bring any of its
25 financial people to address whatever criticisms Ford's

10:52:42AM 1

lawyer had of Dr. Brooks?

2 A Ford could I guess bring whoever they wanted if they were
3 needed, I don't make those decisions.

4 Q Yes, I know you don't, but Ford could bring whoever they
5 wanted if they were needed; right, do you agree with
6 that?

7 A Sure if they were needed for something.

8 Q Yes, sir. Isn't it true that Ford's financial people
9 could answer any of the questions that Ford's lawyer
10 might have?

11 A That I don't know.

12 Q They know the Ford financials better than anybody don't
13 they, Ford's own financial people?

14 A Ford financials would be quite complex, it's a huge
15 company, so I don't know that anyone person knows
16 everything about Ford's financials.

17 Q Ford's lawyers wouldn't be limited to one person if they
18 needed more than one of Ford's financial experts they
19 could bring two or three; couldn't they?

20 A I don't know.

21 Q I was going to ask you about some exhibits that we've
22 talked about before in the past but Plaintiffs'
23 Exhibit 1-A has been admitted into evidence and it
24 renders those exhibits unnecessary now.

25 Put Plaintiffs' Exhibit 1-A back up, so that's going

10:53:58AM 1

to save us a lot of time.

2

Would you agree with me -- withdraw that.

3

Would you tell the Jury how many of these 2019 --

4

excuse me. Would you tell the Jury how many of these

5

1999 to 2016 Super Duty trucks are still on the roads of

6

this country in the United States of America?

7

A I don't know that information.

8

Q Have you reviewed Ford's answers to our questions, our

9

interrogatories in this case?

10

A No, I don't think I have, not anything that relates to

11

what you just asked me.

12

Q Have you reviewed some of Ford's answers to our

13

interrogatories in this case?

14

A I may have, I don't remember anything specifically.

15

Q Do you remember your expert report that was served on us

16

April 15th, 2024?

17

A Yes, I don't know if that date is perfect, but, yes, I

18

did serve an expert report.

19

Q Do you remember your expert report included an

20

Appendix-A?

21

A It typically does, yes.

22

Q Well, it did in this case.

23

A It probably did, yes.

24

Q Yes, sir. We'll get to that in a minute, so we can do

25

away with the problem. But the Appendix-A in your expert

10:55:12AM 1

report in this case had a list of all the stuff you had reviewed and analyzed; right?

2

3

A It is a list of everything that I would have received or my office would have received. I don't necessarily look at every single document on there.

4

5

6

Q We'll get to that in a minute. Show you, Plaintiffs' Exhibit 36, please, would you show that to the witness.

7

8

Go to the signature Page. Scroll down to the bottom. Up one. Will you agree with me that this is Ford's answers to some interrogatories we served on Ford in this case and it is signed by Michael R. Boorman.

9

10

11

12

A It appears to be, yes.

13

Q Thank you, sir.

14

Go back to the top, and then go down to the first list table.

15

16

Would you agree with me that this shows by mile-year all of the F 250s sold in this country as of June 2023?

17

18

MR. PEELER: Your Honor, I object. This is questioning this witness over something that I didn't hear him establish that he has personal knowledge of, so we don't have necessarily to Mr. Butler asking that question, have you seen this document, but if he doesn't have personal knowledge over it, he can't just parrot from it.

19

20

21

22

23

24

MR. BUTLER: It's Ford's sworn answers to interrogatories, Your Honor.

25

10:56:53AM 1

MR. PEELER: Mr. Eikey doesn't work for Ford.

2

THE COURT: Ask him what he knows about it, go

3

ahead.

4

BY MR. BUTLER: Resuming.

5

Q Do you know anything about how many of these Super Duty

6

truck,s, 1999 to 2016, Super Duty trucks, are still on

7

the roads of the United States of America?

8

A I think I already answered that, no, I don't have that

9

information.

10

Q Have you asked?

11

A Asked who.

12

Q Anybody?

13

A I haven't asked anybody, no, it's not information I need

14

for my analysis in this case.

15

Q Well, somebody at Ford could tell the ladies and

16

gentleman of this Jury how many of these trucks are still

17

on the road in the United States of America; couldn't

18

they?

19

MR. PEELER: Your Honor, again, this is just

20

testimony from the lawyer, not from the witness.

21

THE COURT: He can testify based on his knowledge

22

whether there's somebody with Ford that would have that

23

information, if he's got personal knowledge of that, he can

24

answer that question.

25

BY MR. BUTLER: Resuming.

10:57:47AM 1 Q Would you answer that question, please, sir?

2 A I don't know, I don't know if somebody has that specific

3 knowledge.

4 Q Would you agree with me that that specific knowledge is

5 in this interrogatory answer?

6 A I don't know, I would have to read it, sorry.

7 MR. BUTLER: Your honor, let's take a few minutes,

8 it is not very long, he can read it.

9 MR. PEELER: Your Honor, this is the problem. Have

10 you seen this document, no.

11 Well let me read about it, or here why don't you

12 read it and let me ask you to say what's in it. That's not a

13 proper question, Your Honor, with all due respect.

14 THE COURT: If you tendered the interrogatory into

15 evidence as an admission from Ford Motor Company; is it in

16 evidence?

17 MR. BUTLER: We will do so right now, as Plaintiffs'

18 Exhibit 36.

19 THE COURT: Any objection to P-36?

20 MR. PEELER: I don't know that all of it would be

21 relevant.

22 THE COURT: What particular interrogatory questions

23 and answers are you seeking to admit?

24 MR. BUTLER: Go up one page, let me look at.

25 They answered it, our Interrogatory 18, Your Honor,

10:58:51AM 1 it has a bunch of tables in it that shows --

2 THE COURT: All right any objection to Ford Motor
3 Company's response to Interrogatory Number 18?

4 MR. PEELER: Can I read the question?

5 THE COURT: Yes, sir.

6 MR. PEELER: I don't have an objection to that, Your
7 Honor.

8 THE COURT: That's admitted that interrogatory in
9 the response.

10 MR. BUTLER: Go to the next page.

11 THE COURT: You just need to establish whether he
12 knows about any of this information in here. If he doesn't
13 there's no need to continue to question him about it, but
14 you'll be able to argue to the Jury what's in this chart.

15 MR. BUTLER: I will not continue to question him
16 about, Your Honor, thank you.

17 THE COURT: It's in evidence.

18 MR. BUTLER: Yes, sir, thank you.

19 BY MR. BUTLER: Resuming.

20 Q I asked you before -- Plaintiffs' Exhibit 435-A,
21 please -- I asked you before about stuff you reviewed and
22 so Plaintiffs' Exhibit 435 is an excerpt --

23 THE COURT: Mr. Butler, I hate to interrupt you,
24 but, just somebody on the Plaintiffs team needs to redact that
25 Exhibit so it only shows the Question 18 and the response, so

11:00:34AM 1 then when it goes back out with the Jury that's all that goes
2 out.

3 MR. BUTLER: We will get it done.

4 THE COURT: Go ahead.

5 BY MR. BUTLER: Resuming.

6 Q Plaintiffs' Exhibit 435 is an excerpt from your expert
7 report and you recognize that first Page as your expert
8 report in this case?

9 A I do.

10 Q It says, report prepared by Christopher L. Eikey, date of
11 report, April 15th, 2024; is that correct?

12 A That's correct.

13 Q If you look at the next page it states who you prepared
14 this report for, and who did you prepare this report for?

15 A For Ford's Counsel, Ms. Elizabeth Wright.

16 Q If you go to the next Page, it states under the
17 introduction, in preparation for this report I have
18 reviewed and analyzed the material listed in Appendix A;
19 correct?

20 A That's correct.

21 Q It says, reviewed and analyzed, and you go to the next
22 Page, it's the first Page of Appendix A; correct?

23 A Correct.

24 Q And that has got a separate exhibit number, Plaintiffs'
25 Exhibit 431, I'm not sure why, but, that's Appendix A,

11:01:50AM 1

list of filed material; correct?

2 A That's correct.

3 Q If you look at the next page, which is Page 3 of 8, of
4 the Appendix A, you see highlighted some things that
5 you've reviewed and analyzed, now, read to the Jury the
6 highlighted things that you've reviewed and analyzed.

7 A It says Ford Brogdon Claimant List.

8 Q Listing?

9 A Listing, sorry. Ford Brogdon Claimant Listing, F series,
10 SD.

11 Q That's Super Duty?

12 A Yes.

13 Q Okay?

14 A Ford Brogdon Lawsuit Listing, Ford Brogdon Lawsuit
15 Listing, F550 amended, and Ford Brogdon Lawsuit Listing
16 F-series, SD.

17 Q Again, that's their Super Duty?

18 A Yes.

19 Q All of these lists of claims and lawsuits you reviewed
20 and analyzed; correct?

21 A This is a list -- as I said earlier, this is a list of
22 all the materials we would receive in this case and, yes,
23 I'm aware that all of them are in there. I may not do
24 very much analysis on certain aspects of it if they don't
25 support my analysis and the work that I am doing in the

11:03:48AM 1

case.

2 Q Let me unpack that. You may not do much analysis on them
3 if they don't support your analysis?

4 A If they're not something that is pertinent to my
5 analysis, right.

6 Q What you just said was, you may not have done much
7 analysis on things that did not support your opinion; is
8 that what you said?

9 A Right, as in they are not pertinent to what I'm reviewing
10 for the engineering role that I have.

11 Q Don't you think lists of claims and lawsuits would be
12 pertinent to the testimony you gave earlier this week in
13 this case?

14 MR. PEELER: Your Honor, I object. You are going to
15 instruct this Jury that punitive damages in determining what a
16 reasonable amount of --

17 MR. BUTLER: Your Honor, I object to him --

18 THE COURT: Don't tell the Jury what I am going to
19 instruct them on, just give the Federal rule of evidence basis
20 for the objection.

21 MR. PEELER: It's irrelevant, punitive damages do
22 not relate to harm to other individuals that are not parties
23 to this case.

24 MR. BUTLER: I'm not getting to harm to others, Your
25 Honor, I'm not going to go there.

11:04:49AM 1 THE COURT: That specific objection is overruled.
2 BY MR. BUTLER: Resuming.
3 Q Turn to the next Page if you would, please, sir. And
4 read to the Jury what is highlighted there that you
5 reviewed and analyzed.
6 A Ford lawsuits and claims, NOPO; Ford lawsuits and claims,
7 NSPO; Ford lawsuits and claims, PO; Ford lawsuits and
8 Claims, PO other media.
9 Q Who sent these lists of lawsuits and claims to you?
10 MR. PEELER: Your Honor, I object to that question
11 also this outside the scope of the Court's ruling on OSIs.
12 THE COURT: That is sustained.
13 MR. BUTLER: Did Ford to your knowledge do its own
14 list of OSIs, Other Similar Incidents?
15 MR. PEELER: Your Honor, that same objection, this
16 was in Phase I, the Court ruled on permissible OSIs, that
17 evidence has been admitted.
18 MR. BUTLER: I'm not asking about Mr. Herbst's OSIs,
19 I'm asking about Ford's.
20 THE COURT: Overruled.
21 MR. BUTLER: Thank you, Your Honor.
22 BY MR. BUTLER: Resuming.
23 Q The question is did Ford prepare its own list of other
24 incidents that Ford considered similar to this incident?
25 A These lists are the only lists of other incidents I've

11:06:14AM 1

seen, it doesn't mean they are similar or not.

2 Q Let me refine my question. Do you have any knowledge of
3 anybody at Ford Motor Company, employed by Ford Motor
4 Company, or any of Ford's expert witnesses in this case,
5 or any Ford lawyer ever preparing Ford's own lists of
6 Other Similar Incidents?

7 A These lists that I received are prepared by Ford to my
8 knowledge and like I said it is all of the pertinent
9 lawsuits and claims that -- it doesn't mean they're
10 necessarily similar, but it is everything that Ford has
11 in their possession, that's my understanding.

12 Q I understand that, you heard Mr. Peeler's objection, but
13 we can't publish all those lists unless they're similar
14 and Judge Land admits it. So I am not going to go into
15 what's on everyone's lists because of the objection.

16 My question to you is very simple, to your knowledge
17 did anyone employed by Ford Motor Company, or any Ford
18 expert witness for this case, or any Ford lawyer prepare
19 Ford's own list of other similar incidents, yes, or, no?
20 You know or you don't.

21 A The only think I can speak to, you've asked me about
22 various people, well, from Ford's perspective these are
23 the lists that they provide and as I said it is not
24 necessarily similar it's just other lawsuits or claims.
25 I haven't found a list myself if you are asking me as the

11:07:40AM 1 expert analysis I did, I have not found a single other
2 incident that is similar to this one.

3 Q Third time. Have you seen a list of Other Similar
4 Incidents prepared by anybody on behalf of Ford Motor
5 Company, yes, or no?

6 MR. PEELER: Asked and answered, Your Honor.

7 THE COURT: You can answer directly and then explain
8 if you would like.

9 A I think I answered you in that I have not found a single
10 other incident that is similar to this one, so there is
11 no list from my analysis. If you are asking me
12 personally.

13 Q No, sir, that wasn't my question. I understand you say
14 there's never been another wreck that had a header, a
15 failure, like in this case, I understand that's your
16 testimony Mr. Eikey, we heard that earlier this week.
17 Let me ask my question again.

18 Have you seen a list prepared by anybody on behalf
19 of Ford Motor Company of Other Similar Incidents, yes,
20 or, no, have you seen it?

21 A These are the lists that I have received, these are
22 Ford's lists, they've been provided to you and me, the
23 same.

24 Q Have you seen it, is the question?

25 A I have seen these lists, yes.

11:08:43AM 1 Q Have you seen a list of Other Similar Incidents prepared
2 by Ford, yes, or no?

3 MR. PEELER: I think he's answered this question.

4 MR. BUTLER: He hasn't answered it yet.

5 THE COURT: He's asking you whether you've seen a
6 list that someone at Ford contends are Other Similar Incidents
7 not whether you agree, but whether you've seen a list of
8 someone at Ford saying these are Other Similar Incidents.

9 THE WITNESS: To this accident I have not scene?

10 MR. BUTLER: Yes.

11 THE WITNESS: I have not seen that.

12 MR. BUTLER: Thank you, Mr. Eikey's.

13 Thank you, Your Honor, those are all my questions.

14 THE COURT: Any examination by Ford?

15 MR. PEELER: We don't have any questions for Mr.
16 Eikey, Your Honor.

17 THE COURT: Sir, you are now finally excused, you
18 may go.

19 THE WITNESS: Thank you.

20 THE COURT: What does the Plaintiff have next
21 Mr. Butler.

22 MR. BUTLER: May I confer with my learned cocounsel,
23 Your Honor?

24 THE COURT: Yes.

25 MR. BUTLER: With respect to the evidence phase of

11:09:58AM 1 Phase 2, Your Honor, Plaintiff rests.

2 THE COURT: All right does the defendant wish to put
3 up any evidence in Phase 2, other than what's already been
4 presented?

5 MR. PEELER: If we could have one second, Your
6 Honor.

7 THE COURT: Yes.

8 MR. PEELER: The Defense rests.

9 THE COURT: All right. Ladies gentlemen you've
10 heard all of the evidence. I've got a couple of matters that
11 I need to take up with counsel before they give their closing
12 arguments that it won't last but a few minutes, so I am going
13 to have you just go into my conference room so you don't have
14 to go back up and down those stairs again. And it will be
15 probably about five minutes and we will bring you back in for
16 the closing arguments.

17 [JURY EXITS COURTROOM]

18 THE COURT: Okay, I just wanted to put on the record
19 that I have reviewed the additional charges that the Defendant
20 has requested earlier this morning and I have concluded that
21 they are either not adapted to the facts of the case or not an
22 accurate statement of the law with regard to what should be
23 charged to a Jury so I'm not going to give those two
24 additional charges.

25 The other thing I want to confirm yesterday nobody

11:13:05AM 1 expressed any objection to the verdict form and of course it
2 had the litigation expenses and attorneys fees in it, but I
3 just want to make absolutely sure now that we've taken that
4 out and you've got the verdict form I intend to use that there
5 are no objections to the verdict form, it is the same as the
6 one we had yesterday that you had a chance to object to, but
7 it took out the attorney's fees part of it, that's the only
8 change, I just want to make sure nobody objecting to the
9 verdict form. Mr. Melton on behalf of Ford?

10 MR. MELTON: No objection.

11 THE COURT: Mr. Butler?

12 MR. LOWREY: None for Plaintiffs.

13 THE COURT: How much time do you think you each need
14 for the closing arguments? You are going to do the same
15 thing, it's going to be give your main argument and then you
16 will have some time for rebuttal.

17 MR. BUTLER: Your Honor, it's not going to be very
18 long and if I can do without having to take off my watch I can
19 make it even shorter, I think, I just went through my notes, I
20 don't know how much time it will take.

21 THE COURT: Less than an hour total.

22 MR. BUTLER: Yes, sir.

23 THE COURT: You're not going to need an hour are you
24 Mr. Peeler?

25 MR. PEELER: Your Honor, I've been sitting here a

11:14:19AM 1 few weeks, I've got to take --

2 THE COURT: How much do you need?

3 MR. PEELER: An hour's fine.

4 THE COURT: No more than an hour.

5 MR. PEELER: I want equal time to Mr. Butler.

6 THE COURT: I'm going to have the outer limit being
7 one hour but I can't imagine y'all will take an hour.

8 MR. PEELER: Your Honor, just to clarify as in the
9 first phase, he's required to make --

10 THE COURT: He's going to have to ask for an number
11 in his first phase, if he is going to ask for a number.

12 MR. BUTLER: Yes, sir. I'm still debating. Could I
13 have just a couple of minutes to write some stuff on the
14 flip-chart, so we don't waste the Jury's time?

15 THE COURT: Yes, sir.

16 MR. BUTLER: Save the Jury time.

17 MR. MELTON: Can I clarify for the record that the
18 Court denied our request that was filed in Document 363, I
19 just want to make sure that's clear for the record.

20 THE COURT: Is that the 7:37 this morning one?

21 MR. MELTON: Yes, Your Honor, I just want to connect
22 the two back to.

23 THE COURT: Yes, that was the one that requested
24 those two Jury charges.

25 MR. MELTON: Yes, Your Honor.

11:16:38AM 1

THE COURT: I did deny that.

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Just so the record will be clear I'm not finding as a matter of law the ratio may or may not apply with regard to an award of punitive damages, but it's my view that that would apply post judgment and it should not be instructed to the Jury for their consideration if it applies.

As I understand it the current makeup of the court has not had an opportunity to rule on a lot of these issues with regard to punitives; is that correct?

MR. EADY: That's my recollection, Your Honor.

THE COURT: They maybe persuaded by Justice Thomas, which is going to eliminate a lot of your future legal fees. I just try to apply what they say, who ever they are.

MR. BUTLER: Thank, Your Honor, for giving me enough time.

THE COURT: Are you ready.

MR. BUTLER: Yes, sir.

THE COURT: Mr. Peeler are you ready?

Okay, let's bring them in.

[JURY ENTERS COURTROOM]

THE COURT: Okay, ladies gentlemen as with the Phase One, the Plaintiffs' lawyer gets to make the opening argument. Then the Defendant's lawyer will make their closing argument. And then the Plaintiffs' lawyer can come back and make a rebuttal closing argument. You should give the lawyers your

11:21:12AM 1 attention. What they say as I've already told you is not
2 evidence, but it is important for you to listen to what they
3 have to say. Mr. Butler, you are recognized.

4 CLOSING ARGUMENTS

5 MR. BUTLER: Thank you, Your Honor. We apologized
6 to Judge Land this morning and I should have in my opening of
7 phase two apologized to you all too. You all spent time
8 yesterday on this question on litigation expenses and
9 attorneys fees, the bad faith question. We decided last night
10 that we didn't want to pursue that anymore because the focus
11 of phase two ought to be on the Ford Motor Company not us. We
12 apologize to you all for any time we wasted on that yesterday.
13 The Plaintiffs' lawyers, our team, should have had the wit and
14 wisdom to sort of figure that out earlier and we just did not.
15 Sometimes we don't think things through.

16 This phase of the trial is all about Ford Motor
17 Company and what's it going to take. Look at this. I want
18 you to imagine what it's like to go up against an outfit with
19 that kind of resources and the kind of culture that you've
20 seen demonstrated in this case. This case from beginning to
21 end has been about making stuff up on Ford's side. And we've
22 dealt with it now for -- I forget when we filed suit -- two
23 years, I guess.

24 My wife found this in the library outside the other
25 day, and I thought it was pertinent to the issue -- or she

11:23:01AM 1 thought it was pertinent and I agree with her -- to the issue
2 that's before you today. It's from Martin Luther King Jr.:

3 Injustice anywhere is a threat to justice
4 everywhere. We are caught in an
5 inescapable network of mutuality tied in a
6 single garment of destiny. Whatever
7 affects one directly affects all
8 indirectly.

9 Well, that seems to speak to the question, the issue of
10 the amount of punitive damages because it affects everybody.
11 Trying to put a stop to this kind of conduct, the kind of
12 conduct you've heard about and seen in this courtroom is
13 important, not just with respect to Ford Motor Company but
14 with respect to our society and our culture in general.
15 Remember these are the numbers, there was a question by Mr.
16 Peeler for Ford about ownership of the company. There is the
17 Chairman and there's the Board Member.

18 There was a suggestion, and I am sure we're going to
19 hear this from Ford's lawyer in his closing, about Ford's
20 shareholders; and I'll talk more about that if we hear from
21 Ford's lawyers about that. But you know at some point these
22 poor shareholders at Ford should have known about these trucks
23 and these roofs. What you did yesterday and what we ask you
24 to do today; that is try to put a stop to it.

25 Somebody ought to be paying attention to what Ford

11:24:56AM 1 executives, Ford management, does and what affect it has on
2 innocent people like Herman and Debra Mills. Remember it's
3 undisputed Ford Motor Company made at least \$520 million in
4 profit by weakening the roofs; that was admitted to Ram
5 Krishnaswami, who has been a Ford corporate representative in
6 the past and is still employed by Ford. We read to you from
7 his deposition way back last week. He admitted they saved
8 \$520 million just from weakening the roof; that's one number
9 for you to consider.

10 Another is this, other numbers are -- and this is
11 undisputed -- this came from Ford Motor Company. Dr. Brooks
12 didn't testify about this. This is a Ford Motor Company
13 document, Plaintiffs' Exhibit 1-A, please, that you've seen
14 and put the numbers up here. Profits before taxes from
15 selling these trucks \$25.3 billion dollars. Profit per truck
16 '99 to 2009, \$3,194; and 2010 to 2016 \$7,952 per truck.

17 It's undisputed that some 5.5 million of them were
18 sold. It says right there in that document. Mr. Herbst
19 testified that over 3 million of them are still on the road.
20 What's it going to take? Ford is not going to warn anybody
21 who is riding around in those trucks with this roof that --

22 MR. PEELER: Your Honor, I object. The Plaintiffs
23 have withdrawn their failure to warn. There is no failure to
24 warn claim in this case because they abandoned it.

25 MR. BUTLER: That's an improper objection. This

11:27:06AM 1 goes to the amount of punitive damages Your Honor.

2 THE COURT: Overruled.

3 MR. BUTLER: Thank you, Your Honor. Ford is not
4 going to warn anybody about the dangers of riding around in
5 there is over 3 million trucks that are still on the road; not
6 going to warn anybody that if you have the misfortune of
7 rolling over there's a high probability you will be killed, or
8 paralyzed, or otherwise injured. Ford is not going to warn
9 anybody about that. How do I know Ford is not going to warn
10 anybody about that? We had a closing argument yesterday. Did
11 Ford's lawyer say a word about Ford has decided all of a
12 sudden it's going to warn people of those dangers? Wait to
13 you see if you hear that today. They haven't warned for the
14 26 years they've been selling these trucks and known about
15 people getting killed; and they've known about roof crush in
16 these trucks in rollovers.

17 There's another figure that's important on this
18 Plaintiffs' Exhibit 1-A and I should have written it up here.
19 Look under the State of Georgia, this again comes from the
20 Ford Motor Company. How many trucks sold in the State of
21 Georgia? 156,666. Profits before taxes for those trucks
22 \$695 million dollars; that's another number. You'll have this
23 exhibit, look at it. Total profits before taxes, U.S.
24 \$25.3 billion. Profits in Georgia \$695,000,000.

25 I would respectfully suggest to you ladies and

11:28:57AM 1 gentlemen that those two numbers: \$695, and the number they
2 saved from weakening the roof in the nineties, \$520 million;
3 those two numbers are the floor. You gotta go above that if
4 you want to have any hope of even trying to stop this and
5 trying to make Ford warn people of the dangers.

6 Judge Land -- The way a trial works is the lawyers
7 argue about what the Judge ought to tell you in his charge or
8 his instructions. Then the Judge decides what he is going to
9 tell you in his instructions. And then he gives us a copy so
10 we know what he's going to tell you. I want to talk about
11 some of the things that Judge Land is going to tell you.

12 The first thing is this: The measure of punitive
13 damages should be determined by your enlightened conscience as
14 the fair and impartial Jury. In considering the amount of
15 punitive damages to impose you may consider the following
16 factors: 1) the nature and reprehensibility of the Defendant's
17 conduct; that's where you remember all of the phase one
18 evidence. No excuse for selling to Herman and Debra Mills a
19 2015 model year F250 with a roof that had a 1.1 strength to
20 weight ratio. When the same year Ford knew because Ford knows
21 safety roof crush matters -- roof strength matters for safety
22 -- the same year Ford put a roof on its lighter F150 of 5.85.
23 No excuse for that. Talk about reprehensible.

24 Ask yourself, has anybody come before you from the
25 Ford Motor Company to explain why they did that? Selling that

11:30:55AM 1 weak roof all those years and to Mr. and Mrs. Mills was
2 reprehensible. Not even coming before you to explain why in
3 the world they did that is also reprehensible.

4 Number two, the extent and duration of the
5 defendant's wrongdoing and the likelihood of its recurrence.
6 It's been going on for 26 years. They still haven't warned
7 anybody of the danger. There's nothing, nothing that you've
8 heard that tells you that Ford is going to warn anybody of the
9 danger. Failure to warn people of the danger in something as
10 far as we know is going to occur. There's nobody from Ford is
11 here to tell you they are going to warn people.

12 Number three, the intent of the defendant in
13 committing the wrong. The intent was profit; that is why they
14 did it, to save money.

15 Number four, the profitability of the defendant's
16 wrongdoing. You just heard that from Ford itself; that's how
17 much they made in profits before taxes from selling these
18 trucks. That's pretty profitable \$25.3 billion dollars,
19 that's kind of like Bryant Buchner when they claimed he made
20 \$1.3 billion dollars; do you remember that? And he's still
21 traveling around and testifying. But this has been really
22 profitable for Ford Motor Company. The financial
23 circumstances, that is the financial condition and net-worth
24 of the defendant. Dr. Brooks gave you that and Plaintiffs'
25 Exhibit 1-A which comes from Ford gives you that.

11:32:29AM 1 Ladies and gentlemen, I respectfully submit that
2 you've got to show Ford Motor Company that people like Mr. and
3 Mrs. Mills getting killed, or paralyzed, or injured is not
4 just a cost of doing business. They treated it like the cost
5 of doing business. All these lawsuits and claims, all these
6 OSIs you've heard about. The 41 cases that one little small
7 engineering firm in California has worked on. Ford knew about
8 what was happening. Why didn't they do something to stop it?

9 Ford Motor Company has a really good engineers. The
10 ERSP team proved that. Remember, don't forget that team of
11 about 20 engineers in 16 months designed a roof for this
12 truck. Enhanced Roof Strength Project for Super Duty Trucks,
13 for this truck, that was five times stronger -- and this is
14 the kicker -- cheaper to build. They could do it. Great
15 engineers.

16 The executives never used that roof. Look at the
17 2009, 2011, 2015 F150s. 2009 is three times stronger. 2011
18 four times stronger. 2015 five and half times stronger. The
19 engineers know how to do it. They were ready and willing to
20 do it. Why didn't the executives get it done? Remember this,
21 and this is perhaps the best evidence that I said earlier, the
22 fact that a huge amount of punitive damages is necessary.
23 Ford to this day claims this roof is absolutely safe, which is
24 preposterous.

25 Remember this also because this came up and I forget

11:34:32AM 1 which witness from Ford was examined about this. In one of
2 the examinations, Ford's lawyers made the point that only
3 3 percent of all wrecks in the United States are rollover
4 wrecks. And I can't remember if that's accurate or not, but
5 the percentage of all wrecks that are rollover wrecks is low;
6 that's correct. I think it may be more than 3 percent.
7 Remember what Mr. Eikey told you earlier this week. He
8 admitted that about 25,000 people get killed every year in
9 rollover wrecks; that's a lot of people 25,000; that's not
10 chump change that's people like us get killed every year in
11 rollover wrecks. And the chances of them getting killed are
12 many, many times greater if they are riding around in a truck
13 with a roof this weak.

14 With respect to how much remember this. You heard
15 the Ford lawyer's closing argument yesterday. No remorse. No
16 one here from Ford. No promise even from the Ford lawyers
17 that Ford is going to do anything. No promise from the Ford
18 lawyers that Ford is going to warn people. What did we see
19 from Ford Motor Company yesterday? There's nothing wrong with
20 our roof. There's nothing wrong with our roof. It's all Mrs.
21 Mills' fault. Blame the victim that's what we have got.

22 When I was a young lawyer there is a famous lawyer
23 named Louie Nizer and when I was just starting out I heard
24 about him. He had written about seven books. I bought all of
25 his books. I bought them in paperback because I didn't have

11:36:23AM 1 any money. And I started reading through them. I was about
2 on the third one I think. I read what he said that sometimes
3 you have stay up all night before trial to get ready. And I
4 quit reading his books because I thought he's either a fool or
5 a liar because you can't stay up all night and try a case;
6 that's crazy. But he did say one thing that I always found
7 was interesting that is he said, each side presents its best
8 profile and the jury sees truth in the face. Think about it.
9 That bothered me too because I don't agree with that. I don't
10 agree that each side should present its best profile. I'll
11 never agree with the idea that a party to a lawsuit or a
12 lawyer ought to engage in just making stuff up. And that's
13 what you all have seen from Ford lawyers because they are here
14 for Ford, nobody else is here from Ford. Ford has just been
15 making stuff up; that is relevant to your decision about how
16 much is enough.

17 There are lots of reasons the amount should be huge.
18 Remember Plaintiffs' Exhibit 133-A, that's the Michael Lee
19 edits to the Jason Balzer memo. Jason Balzer was a member of
20 the ERSP team and he wrote this memo that we put into
21 evidence. It's the one remember on Page 2, it says; why is
22 this important building a stronger roof? Why is this
23 important? One of the things he talked about was lawsuits.
24 This was 2005, this young engineer -- then young, he's not
25 young anymore -- then young engineer at Ford is saying we want

11:37:58AM 1 to build a five times stronger roof because of lawsuits.
2 That's 17 years before Mr. and Mrs. Mills got killed. Jason
3 Balzer wrote this memo and then Michael Lee edited it and he
4 took out a bunch of words. You all saw that during Balzer's
5 deposition.

6 Michael Lee works in the "Automotive Safety Office".
7 That's what they call the office where people like Michael Lee
8 and Chris Eikey work whose job it is to make stuff up to
9 defend Ford in lawsuits. You heard Mr. Eikey again today. So
10 we're interested in what did Michael Lee edit out of young
11 Jason Balzer's memo: "honest"; "collapse"; "failure"; "crash";
12 "safety". He took them out. And he took out that whole
13 paragraph about why is this important and the reference to
14 lawsuits.

15 What do you do with an outfit like that? What do
16 you do with an outfit that sells these trucks with an
17 indisputably weak roof, weakest in the whole fleet of them,
18 Ford Motor Company? For 18 years, and 26 years later still
19 says it's absolutely safe and who sends somebody from what
20 they call the Automotive Safety Office to take out words in a
21 young engineer's memo like honesty.

22 Remember I asked Mr. Balzer. Mr. Balzer, as an
23 engineer, is there anything wrong to you with the use of those
24 words?

25 He said, no, sir.

11:39:42AM 1 That's what you're dealing with here. I'm going to
2 close now and say this. Again, like I said yesterday, who
3 gets what is irrelevant; something you should not consider.
4 That was true yesterday when we were talking about money for
5 the family. It's a hundred times more true today when we're
6 talking about money to stop misconduct and wrongdoing.

7 When you consider how much remember this. In the
8 Supreme Court of Georgia in Atlanta there is behind the
9 Justices when they come in and sitdown at the bench, there's
10 nine of them now. Engraved above their heads in big letters
11 are the latin words Fiat Justitia Ruat Caelum. Fiat Justitia
12 Ruat Caelum. I don't know if any of you all understand Latin.
13 I sure don't but I looked it up a long time ago and what that
14 means is: Let justice be done though the heavens may fall.

15 So when you are back there talking about how much
16 that's what we are going to ask you to do. Let justice be
17 done though the heavens may fall. Do the best you can to try
18 to deter to put a stop to this. No compromises. No time for
19 compromises. You only got one shot to try to put a stop to
20 this. No compromises.

21 Thirty years ago I was trying to a case and we were
22 asking jurors questions. The lawyers were asking jurors
23 questions and I can't remember what question I asked. This
24 older lady said to me about serving on the jury she said, you
25 come to court for justice. But we are to the part of the case

11:41:44AM 1 where this is not just the Mills family seeking justice. This
2 is your opportunity to do justice on behalf of everybody.

3 JFK said in his inaugural address: "Let us ask God's
4 blessing and his help but knowing that here on earth God's
5 work must be our own". We can make a difference each one of
6 us and you 12 or you 11 now collectively. You are given a
7 great opportunity and with opportunity comes a duty to try to
8 put a stop to this. You can help people none of us will ever
9 know or even know of.

10 I decided to become a lawyer when I watched the
11 movie To Kill a Mockingbird. I don't know if y'all seen that
12 great movie. I watch it all the time. I've got photographs
13 screenshots on my office walls of scenes from To Kill a
14 Mockingbird. I was 11 and I remember Atticus Finch at the end
15 of his closing argument said -- it was all a male jury then --
16 they didn't have ladies on the jury back then in '62 -- He
17 said gentlemen do your duty. Opportunity means duty.

18 How much? This is the hardest part of this kind of
19 job because you don't want to shock people so it's up to you
20 really. How much you think is enough to try to stop it is up
21 to you, but keep in mind these numbers. At Ford Motor Company
22 every year they retained what they call cash and cash
23 equivalents every year, piggy bank money, \$22 billion; that's
24 on hand every year. Enterprise value that's what the
25 corporation is really worth \$240 billion. Profits total

11:44:11AM 1 \$25.3 billion just from selling these trucks. It's been two
2 and half years since the wreck; 25 years since they first
3 started selling these trucks. I don't know how much to ask
4 you for. I really don't. It's up to you. It certainly
5 cannot be less than the \$520 million they saved in the
6 nineties or the \$639 million that they made through selling
7 these trucks in Georgia. It ought to be more. These trucks
8 are all over the United States of America and elsewhere in the
9 world. We're talking about the United States of America today
10 though. And people are riding around in them every day. That
11 brings up another question that's perturbed me from the first
12 time I got involved in learning about these trucks.

13 Why would the executives at Ford put such a far
14 stronger roof in the F150 than in the F250, F350, and 450?
15 Nobody has ever answered that question. I brought it up I
16 think in opening statement. Nobody has ever answered that
17 question: not a Ford executive, not a Ford witness, not a Ford
18 expert, not a Ford lawyer. Why would you do that? Who rides
19 around in these super duty trucks? Farmers, ranchers,
20 construction workers mostly they are built for working people.
21 F150s are kind of show boats. They are good trucks. I'm
22 not disparaging F150s at all but heavy-duty trucks are work
23 trucks. Why would you put a great roof on the F150 and an
24 awful roof on the F250? Think about that when you think about
25 how much is enough.

11:46:05AM 1 I would ask that you return a verdict of not less
2 than \$10 billion in punitive damages; \$520 or \$639 million
3 ought to be the least. You can award any amount you want to
4 but to get the message to Ford's executive suite, and try to
5 change the culture, and try to put a stop to this; we ask you
6 to return a verdict of not less than \$10 billion. Thank you
7 so much. Thank you Your Honor.

8 THE COURT: Mr. Peeler.

9 MR. PEELER: Your Honor, may we approach before I
10 give my closing, please?

11 THE COURT: Yes, sir.

12 MR. PEELER: Did you say \$10 million or \$10 billion?

13 MR. BUTLER: I thought I said billion.

14 MR. PEELER: I just wanted to clarify that.

15 MS. WRIGHT: I think you said million and then you
16 changed it to billion.

17 MR. PEELER: I think he changed it to billion.
18 Whatever he said I just want to know what it was.

19 THE COURT: He changed it to billion if he misspoke.
20 Is that it?

21 MR. PEELER: Also there is a Plaintiffs' Motion In
22 Limine Number Eight about arguing that the impact of the
23 punitive award will affect operations or employees of Ford.
24 Your ruling was that we can't argue that until we established
25 relevancy. Through my questioning of the economist I

11:48:01AM 1 established walking through the expense line that those
2 expenses include paid salaries, doing research and
3 development, and all of those things. And then I also
4 established through him that their rainy day fund is only
5 \$17 million. So he's asking for \$10 billion; that is going to
6 have an impact and I should be allowed to argue that because
7 it's relevant --

8 THE COURT: You can argue that.

9 MR. PEELER: I just didn't want to do it without
10 checking with your first.

11 MR. BUTLER: We object to it, Your Honor.

12 THE COURT: Okay.

13 MR. BUTLER: Your Honor, may I clarify misspeaking
14 to the Jury?

15 THE COURT: Okay. You have an opportunity to come
16 back in your rebuttal but if you want to clarify.

17 MR. BUTLER: I want to do it now. I am told that I
18 may not have been clear and I might have used a M instead of a
19 B. When I said 10-something I meant \$10 billion with a B.
20 Thank you very much.

21 THE COURT: Mr. Peeler.

22 MR. PEELER: Thank you, Your Honor. I gotta tell
23 you something. I'm not a good storyteller. I'm not good at
24 quoting people. I'm not good at being entertaining. If I
25 tried to be like Mr. Butler you guys would see through it so

11:49:44AM 1 quickly you wouldn't listen to a word that I said. I'm just
2 going to talk to you about the way that I see the case. And
3 the way that I believe would be a fair amount of punitive
4 damages under the circumstances of this case.

5 You heard the aggravating factors; that's what I
6 told you in opening. Mr. Butler is going to talk about the
7 aggravating factors. Now I am going to ask you to consider
8 the mitigating factors. Those things that happened that you
9 heard about in this trial that makes things less severe. The
10 factors that show good faith.

11 Now, the Court has told you that companies act
12 through people as their employees. So here's a mitigating
13 factor. Over a thousand engineers spent five-years developing
14 this truck. You might disagree with this roof design, but I
15 hope that you would consider that it shows good faith that
16 that many people, put that much time, and a company put that
17 much resource into developing a vehicle.

18 Number two, Ford's engineers were on the forefront
19 of designing, developing, and incorporating two
20 state-of-the-art enhanced safety features in that F250 truck.
21 The side canopy airbag and the roll stability control. Now
22 you might believe that Ford could've done more but
23 incorporating safety features like that, spending time and
24 money to develop safety features like that; that shows good
25 faith. Ford's engineers incorporated ten safety features into

11:51:31AM 1 their restraint system to protect the occupants. Only two of
2 those were required by the law. Incorporating those safety
3 features that shows a commitment to safety innovation; that is
4 good faith.

5 The Alliance of Automotive Manufacturers is made up
6 of 16 manufacturers. They all agreed with the research and
7 the testing that showed that the most effective way to
8 increase occupant safety was through the stability control,
9 the side canopy airbags, not increasing roof strength.

10 Plaintiffs' experts disagree with that. Ford's
11 experts and the industry agree with that. But Ford's reliance
12 on research that other folks also rely on that shows good
13 faith not bad faith. Everybody agrees that there is no injury
14 proof vehicle design. Rollover crashes are 3 percent of
15 crashes. Pitchover crashes are only 2 percent of that
16 3 percent.

17 Investing in safety features like the side canopy
18 airbag and the stability control steering to try to protect
19 what is thankfully, a small fraction of individuals who are
20 involved in car accidents demonstrates good faith. Here's the
21 reality. This roof, the design that's at issue in this case,
22 has not been sold in a truck manufactured from model years
23 2017 to present. Those trucks are not being manufactured or
24 sold today; that's a mitigating factor.

25 The Court is going to give you several legal

11:53:26AM 1 principles to consider when you are determining an appropriate
2 amount of punitive damages. Number one, Mr. Mills' injuries
3 have been made whole by your award of compensatory damages in
4 phase one. Any damages in phase two should not be to
5 compensate the families of Mr. and Mrs. Mills or the injuries
6 of anyone else. The Court is going to tell you that. These
7 damages cannot be used to compensate for the injuries of Mr.
8 and Mrs. Mills or the injuries of anyone else. You have done
9 your duty as it relates to the families of Mr. and Mrs. Mills;
10 that was phase one. You did your duty.

11 Legal principle number two, the proper party to
12 bring a punitive damages claim is James Edward Brogdon, Jr. as
13 the executor of the estates of Mr. and Mrs. Mills. You will
14 see that -- if you pull up -- I'm going to show you what the
15 jury instructions are for punitive damages that you will have
16 back with you. Right there in the first line it's going to
17 say: The proper party to assert the punitive damages claim is
18 James Edward Brogdon, Jr. as the executor of the estate of Mr.
19 and Mrs. Mills.

20 Now, you awarded in phase one \$500,000 to the estate
21 for pain and suffering of Mrs. Mills and \$5 million to the
22 estate of Mr. Mills. Any punitive damages award that you make
23 should be both reasonable and just in light of this previous
24 award of \$5.5 million in damages to these estates; that's the
25 legal principles. You are looking on the screen there about

11:55:23AM 1 the legal principles that the Court is going to provide to
2 you.

3 Mr. Butler has asked you to award \$10 billion
4 dollars. That is an eye-popping amount of money particularly
5 when you consider that crashes like this are only 2 percent of
6 the 3 percent of crashes. That request for \$10 billion is
7 contrary to the Court's instruction because it's not
8 reasonably related to the \$5.5 million that you awarded to
9 these estates. A punitive damages award should not exceed the
10 damages awarded to the estate, so in this case should not
11 exceed the \$5.5 million.

12 Mr. Butler attempts to tie his number as I told you
13 this in the opening, to the sales of trucks to other people,
14 but that is contrary to what this Court is going to tell you.
15 The Court is going to tell you that your award of punitive
16 damages may not punish Ford for any impact of its conduct on
17 individuals who are not parties to this case. So don't punish
18 Ford on the sale of vehicles to other people because you can't
19 punish Ford on the impact on its conduct on individuals who
20 are not in this case. That's why those sales numbers should
21 not be used to come up with an appropriate amount of punitive
22 damages.

23 The same with the enterprise value, the cash on
24 hand, all of those things; that's why you don't use the value
25 of the enterprise; you don't use the sales numbers; you don't

11:57:17AM 1 look at the net worth of the company. Because you don't want
2 or you can't -- I should say punish -- Ford for the impact it
3 may have on other people who are not parties to this case.
4 Again, in this case you got to think about the evidence that
5 you heard.

6 Mr. Herbst testified that between \$6 and \$9 per
7 vehicle would have been saved had this roof been incorporated;
8 that means that profitability that's not a guide for an
9 appropriate amount of punitive damages in this case.

10 Now Mr. Butler, he also attempts to get you to award
11 \$10 billion dollars because a Ford representative was not at
12 this trial. But, again, whether a Ford representative or Ford
13 executive is at this trial or not at this trial; that's not
14 evidence. It certainly isn't related to the \$5.5 million that
15 you awarded to the estates of Mr. and Mrs. Mills.

16 I want to take a minute and talk about lots of
17 accusation about Ford could have brought this. Ford could
18 have brought this person. You didn't see anybody from Ford
19 here. You all know how the system works. These lawyers have
20 access to anybody they want. If you have any question about
21 that some of the Plaintiffs' evidence, they played to you the
22 videotaped depositions from 2017. Why? Because they had
23 access to anybody that they thought had information that was
24 relevant to this case. So don't penalize Ford for its
25 decision on what witnesses to call. The Plaintiffs can call

11:59:10AM 1 anybody they want to that they think has information relevant
2 to this case including: Ford executives, Ford employees, Ford
3 witnesses. You saw it in the depositions that went all the
4 way back to 2017.

5 Now, make no mistake, Ford hears your verdict. Your
6 message has been sent loud and clear on what you awarded to
7 these Plaintiffs. Through that award you told Ford and the
8 employees which act on Ford's behalf that you believe that the
9 roof was defective. Ford hears that. If any juror says that
10 Ford still needs to be deterred, remind that juror that the
11 roof has not been manufactured or put in a production vehicle
12 since 2016.

13 If a juror wants to punish or deter Ford because
14 they think a Ford executives should have testified at the
15 trial, remind them that is not evidence. Punitive damages are
16 intended to punish and deter Ford for the design of the roof
17 in this case, not for its lawyers who decided who should and
18 who should not testify at trial.

19 Now, this is a sad case. Two people lost their
20 lives, but you've compensated the family. You have done your
21 duty. There is no reason to further punish Ford. There's no
22 reason to deter Ford. You heard the economist's testimony and
23 that is Ford is owned by its shareholders. Ford responsibly
24 manages the value of its company so they can have a share
25 price that goes up for those employees, and individuals, and

12:01:08PM 1 families, and pension funds, and retirement accounts that hold
2 that so they can return money to those shareholders.

3 You have done your duty. You have done your job.
4 You have compensated what you believe in your enlightened
5 conscience is an appropriate amount to the families of Mr. and
6 Mrs. Mills. Ford has heard you. Thank you for your service.

7 THE COURT: All right Mr. Butler, you may give the
8 final rebuttal.

9 MR. LOWREY: Could I have just a second with
10 Mr. Butler?

11 THE COURT: Yes.

12 REBUTTAL CLOSING ARGUMENT

13 MR. BUTLER: Thank you, Your Honor. Ladies and
14 gentlemen, I'll be brief or I hope I'll be brief. There's a
15 whole lot here to unpack.

16 First Mr. Peeler told you, Ford's lawyer told you,
17 "Ford heard your message". And then what did he say? Let's
18 talk about the rest of the story. We heard about that in
19 opening statement. Remember the rest of the story. Let's
20 talk about the rest of the story. He says, Ford heard your
21 message. Then he says, it's our fault no one from Ford is
22 here. I've taken the depositions of lots of Ford engineers.
23 We had a lot more than -- four that we played. We had a lot
24 more than four in the can.

25 Judge Land doesn't like us to waste time. There's

12:02:40PM 1 no reason to play other depositions. We never did get a
2 deposition of a Ford executive. It's not our fault nobody
3 from Ford came to explain these decisions, no executive came
4 to explain these decisions. Then Mr. Peeler said -- one of
5 the last things he said -- is that there is no reason to
6 punish or deter Ford. This is right after he said Ford has
7 heard your message. You made that decision yesterday when you
8 wrote, yes, to punitive damages. You decided to punish Ford
9 and deter Ford. We're talking about an amount. He says Ford
10 has heard your message. They are still disputing what you
11 decided yesterday.

12 Mr. Peeler told you that you may not consider Ford's
13 financial circumstances. You're the one the Judge is going to
14 charge. I'll read it: You may consider the following factors
15 -- there's six of them -- the last one is this, "the financial
16 circumstances that is the financial condition and/or the net
17 worth of the defendant" this stuff.

18 Here we are at the end of trial and Ford is still
19 paying lawyers to make this stuff up. But he says you may not
20 consider their financial circumstances; that's just not true.
21 You're fixing to hear it from Judge Land. He showed you a
22 screenshot that the estates are the ones that made the
23 punitive damages claims; that wasn't even subtle. That was
24 very transparent. His point was to tell you who might get the
25 money if it's ever collected after, someday. That's not a

12:04:20PM 1 proper consideration when it comes to the amount of punitive
2 damages. The punitive damages is focused on Ford. Up here
3 they are saying Ford has heard your message and they're still
4 trying to convince you not to do your legal duty, but to focus
5 on who might get some money. Ladies and gentlemen, that is
6 reprehensible.

7 Ford had its last chance through this particular
8 lawyer to stand before you and express remorse, state an
9 apology, or say that Ford is finally going to warn people of
10 the danger. Did he do it? No, that's reprehensible.
11 Reprehensibility is a big deal when it comes to the amount of
12 punitive damages as you'll hear in Judge Land's charge.

13 One of the first things he said was that a thousand
14 engineers spent five-years designing this roof. What is the
15 Executive Summary PX number?

16 MR. PHILYAW: 181.

17 MR. BUTLER: 181, please. Remember that? That's
18 what he said. He says we're trying to blame the engineers.
19 You saw this document. You've heard Mr. Sal Caruso testify
20 that this document was a cost-containment. This document told
21 Ford engineers to take metal and parts out of the roof they
22 had already designed. And you heard Mr. Krishnaswami, we read
23 his deposition, testify that this exercise of weakening the
24 roof saved Ford \$520 million; which means it made Ford another
25 \$520 million in profit. Ford is still making stuff up even

12:06:09PM 1 after your verdict yesterday.

2 Ford's lawyer talked about safety features.
3 Remember he talked about safety features in the restraint
4 system? We objected to Roger Burnett's testimony because they
5 don't claim the restraint system was defective. They were
6 both wearing seatbelts and shoulder belts. No claim. I
7 forgot who cross-examined Mr. Burnett; that was Mr. Lowrey.

8 Mr. Lowrey got Mr. Burnett to admit that in his
9 direct examination he never said the word roof a single time.
10 The case is about the roof. It's all a diversion. Here we
11 are at the eleventh hour when Ford has a chance to get up here
12 and apologize, express remorse. They are still trying to
13 divert your attention away and divert your attention to who
14 might get some money. Divert your attention away from the
15 roof by talking about other safety features.

16 He brought up the side canopy airbag. Remember, I
17 brought this up yesterday in my closing argument because
18 Mr. Eikey testified about this. The first time Ford put a
19 side canopy airbag was in the 2002 Ford Explorer. I'd like to
20 have a Ford witness I can ask the question, not Mr. Eikey --
21 somebody who might answer a question -- a Ford witness to
22 answer the question. Now, why in 2002 did Ford put a side
23 canopy airbag in the Explorer? The reason is marketing.
24 Marketing. They put it in their TV ads and they put it in
25 their product brochures to market safety. They put that stuff

12:07:48PM 1 about the side canopy airbag in the 2015 F250. It did Mr. and
2 Mrs. Mills a lot of good didn't it. Huh? You got an airbag
3 going off right here and the roof is crushing down on their
4 heads. I mean this is ridiculous; it's misleading. It's an
5 attempt to divert you away from the issue, which is failure
6 modes: header, A-pillar, B-pillar.

7 At the eleventh hour Ford's lawyer gets up here and
8 talks about roof crush doesn't matter. They all agree that
9 roof crush doesn't matter. We've been through that. NHTSA
10 rejected that argument. IIHS rejected that argument. Ford
11 itself rejected that argument when it put a much stronger roof
12 on the F150 and when it told Mr. Baccouche he could publish
13 his paper saying roof strength is crucial to preventing
14 injuries. This is made up stuff from Ford's lawyers and
15 testifiers. Everyone agrees that roof strength is crucial
16 except Ford's lawyers and testifiers.

17 Mitigating factors. He said a mitigating factor is
18 the fact that finally, blessedly, Ford is not selling trucks
19 with this weak roof anymore. Ladies and gentlemen, there is
20 still over 3 million of them on the road; that's undisputed.
21 Ford is still insisting they are absolutely safe. I thought
22 maybe at this phase of the trial Ford would put a witness on
23 the stand and say, well, we take it back. We admit these
24 roofs are dangerous. We admit these roofs are not absolutely
25 safe. Have they done that? No. That's reprehensible.

12:09:39PM 1 That's why you need a huge amount of damages. Somebody's got
2 to reach them. I can't reach them. I've worked my tail off
3 for a lot of years and have made little progress, but you can
4 reach them. The danger is still there.

5 Mr. Peeler said Ford respects your decision. I
6 haven't seen anything that I think shows Ford Motor Company
7 respects your decision and again there's not even anybody from
8 Ford here. Ladies and gentlemen, again, we thank you for your
9 service. And we simply ask that you do your duty. Do
10 everything you can to try to put a stop to this. Thank you
11 very much.

12 Thank you, Your Honor.

13 MR. LOWREY: May we approach on a charge matter
14 before you charge the Jury?

15 THE COURT: All right, come forward.

16 MR. LOWREY: This is the charge. Here's the
17 concern. I am obviously not attacking Mr. Peeler, but his
18 argument using this part of your charge -- any awards you make
19 should be both reasonable and just in light of your previous
20 award of damages -- He came very close to suggesting to the
21 Jury that your instruction means that it can't be more than
22 5.5 and the Jury shouldn't be left with that confusion. So we
23 would ask that you add that sentence right after the any
24 awards sentence. I will show it to you.

25 MR. PEELER: Your Honor, Mr. Butler argued a bunch

12:12:01PM 1 of the factors about value. I argued the factor about taking
2 into account your award. That's just arguing highlighting one
3 element over the other. Then you'd have to go back and
4 highlight every single element, put some limiting instruction
5 on all the other elements.

6 THE COURT: I'm going to give the charge as I
7 indicated previously that was not objected to. I'm not going
8 to revise it.

9 MR. LOWREY: I hear your ruling. May we make a
10 record afterwards, is that okay with you, Your Honor?

11 THE COURT: Yes.

12 JURY CHARGE

13 THE COURT: Yes. This is going to take long
14 two-and-a-half-pages and you'll have a copy of this with you
15 back there in the Jury room.

16 You have decided to impose punitive damages against
17 Ford Motor Company in this case and next as you now know you
18 must determine the appropriate amount of those punitive
19 damages. I'm going to now give you instructions that explains
20 the law with regard to that job you have of determining the
21 amount of punitive damages.

22 As I instructed you previously the proper party to
23 assert the punitive damages claim is James Edward Brogdon
24 Junior, as executor of the estates of Debra Mills and Herman
25 Mills.

12:13:38PM 1 In determining the appropriate amount of punitive
2 damages you should consider all the evidence that was admitted
3 in the first phase of the trial, plus any evidence that's been
4 admitted in this most recent phase of the trial.

5 You should also bare in mind that Plaintiffs' injury
6 has been made whole by your award of compensatory damages.
7 The sole purpose of punitive damages is to punish, penalize,
8 or deter the Defendant in the amount you impose should reflect
9 that purpose only.

10 The measure of punitive damages should be determined
11 by your enlightened conscious as a fair and impartial Jury.

12 In considering the amount of punitive damages to
13 impose you may consider the following factors.

14 One, the nature and reprehensibility of the
15 Defendant's conduct.

16 Two, the extent and the duration of the Defendants
17 wrongdoing and the likelihood of its recurrence.

18 Three, the intent of the Defendant in committing the
19 wrong.

20 Four, the profitability of the Defendant's
21 wrongdoing.

22 Five, the amount of actual compensatory damages that
23 have been awarded.

24 And six, the financial circumstances. That is the
25 financial condition and/or net worth of the Defendant.

12:15:05PM 1 In making your award you should consider the degree
2 of reprehensibility of the Defendants wrong doing. You should
3 consider all the evidence both activating and mitigating to
4 decide how much punishment the Defendant's conduct deserves
5 and what amount of punitive damages is necessary to deter
6 similar misconduct.

7 In assessing reprehensibility, you may consider
8 whether the harm caused was physical as opposed to economic,
9 the conduct showed an indifference to or recklessness
10 disregard of the health or safety of others, and the conduct
11 involved repeated actions or was an isolated incident.

12 When I say that you may consider whether Ford Motor
13 Company's conduct involved repeated actions I mean you may
14 consider whether and to what extent Ford Motor Company engaged
15 in repeated misconduct similar to the misconduct that harmed
16 Debra and Herman Mills.

17 Although you may consider such evidence in
18 determining the amount necessary to deter similar misconduct
19 as well as how much punishment Ford Motor Company's conduct
20 deserves in this case, I caution you that Ford Motor Company
21 may only be punished in this case for the conduct that harmed
22 Debra and Herman Mills.

23 Therefore your award of punitive damages may not
24 punish Ford Motor Company for any impact of his conduct on
25 individuals who are not parties to this case.

12:16:44PM 1 Any award you make should be both reasonable and
2 just in light of your previous award of damages the conduct
3 and circumstances of the Defendant and the purpose of punitive
4 damages.

5 Your verdict should be a true verdict based upon
6 your opinion of the evidence according to the laws given you
7 in this charge, you are not to show favor or sympathy to one
8 party or the other.

9 It is your duty to consider the facts objectively
10 without favor, affection or sympathy to any party.

11 I have prepared a verdict form for you and it is
12 very simple, I don't think I need to pull it up on the
13 computer.

14 It simply says we award punitive damages to James
15 Edward Brogdon, Jr. as executor of the estate of Debra Mills
16 and James Edward Brogdon, Jr. as the executor of the estate of
17 Herman Mills jointly and against Ford Motor Company in the
18 amount of and then there's simply a blank for you to insert
19 that amount, and then your Foreperson would sign and date the
20 verdict form and return it and I will publish it in open
21 court.

22 All right, Mr. Gunn will make sure that you have the
23 additional exhibits that were admitted during the second phase
24 and you will also have the courts instructions and this
25 verdict form.

12:18:05PM 1 You may go and start your deliberations when all
2 those exhibits have been delivered to you.

3 Any objections to the charge other than those that
4 have been previously stated for the record for the Plaintiff,
5 Mr. Lowrey?

6 MR. LOWREY: We want to put on the record, what we
7 talked about.

8 We object to the Court's refusal to charge language
9 the same or functionally similar to, that does not mean that
10 your punitive damages --

11 MR. BUTLER: Let me interrupt a minute. This is
12 what we talked about at the bench conference.

13 MR. LOWREY: Yes.

14 MR. BUTLER: So it's on the record.

15 THE COURT: Yes, this was talked about at the bench
16 conference before the court gave its charge and the court
17 considered it and decided it would not give the requested
18 supplemental charge. Go ahead and put it on the record.

19 MR. LOWREY: We asked him to put in a sentence that
20 I was reading, that does not mean that your punitive damage
21 award is limited to the amount we previously awarded in
22 compensatory damages. To be clear it's not the particular
23 language we are insisting on, it is the concept.

24 We wanted that to come after the sentence that
25 starts any awards you make on Page three of the Courts charge

12:19:50PM 1 we consider the request to be timely and arose only in light
2 of the closing arguments and I made the request that Your
3 Honor know that the charge was delivered. Our rationale is
4 that theory in light of the closing arguments to avoid Juror
5 confusion induced by argument that in our view suggested that
6 this -- that the Jury's punitive damages award has to be
7 limited to \$5.5 million dollar pain-and-suffering award, I
8 understand the court's ruling on that.

9 THE COURT: All right you've got your record
10 preserved.

11 The court did not think that supplement was
12 necessary and that the charge was clear that they could
13 consider the amount of compensatory factor compensatory
14 damages along with other factors in the case.

15 And there's no suggestion in the charge that they
16 were limited or capped on their punitive award at what the
17 compensatory award was, I think the charge was clear on that
18 and did not need to be supplemented. Does the Defendant want
19 to put anything on the record?

20 MR. PEELER: No, Your Honor.

21 THE COURT: All right. Does the Defendant have any
22 objection to the charge other than those previously stated for
23 the record.

24 MR. MELTON: No, Your Honor.

25 THE COURT: Okay, we will await the verdict in phase

12:21:10PM 1 two.

2 MR. BUTLER: Thank, Your Honor.

3 COURT SECURITY OFFICER: All right.

4 Friday, February 14, 2025 12:21:13

5 [Jury DELIBERATIONS]

6 JURY VERDICT

7 THE COURT: Let's bring the Jury down everybody is
8 here.

9 Let the Jury read the unanimous verdict.

10 THE FOREPERSON: Yes, sir.

11 THE COURT: I will publish the verdict.

12 In the case after James Edward Brogdon, Jr. et al v.
13 Ford Motor Company, 4:23-CV-00088-CDL we award punitive
14 damages to James Edward Brogdon, Jr. as executor of the estate
15 of Debra Mills and James Edward Brogdon, Jr. as executor of
16 the estate of Herman Mills jointly and against Ford Motor
17 Company in the amount of \$2.5 billion dollars.

18 It is signed by the foreperson and dated today.

19 Let the counsel see that to see if there is any
20 objection to the form.

21 By the Plaintiff.

22 MR. BUTLER: No objection.

23 THE COURT: None, by the Defendant?

24 MR. PEELER: No objection to the form.

25 THE COURT: No objection to the form. All right

1:36:03PM 1 ladies and gentlemen that concludes your service. The Court
2 appreciates your attention to this case we have no other cases
3 for you to try.

4 I would like to individually thank the Jury so I am
5 going to ask you to go to my conference room for just a few
6 minutes, I want to come back and thank you personally and then
7 you will be on your way, it will not take long, thank you.

8 [JURY EXITS COURTROOM]

9 THE COURT: Shut that door, okay. I just wanted to
10 clarify a couple of things to make sure I am on the same page
11 with regard to the entry of a judgment. Does everybody agree
12 that the damages for the estate and for the wrongful death
13 should be reduced by 15 percent because of the comparative
14 fault that that applies to both the wrongful death damages and
15 the estate damages.

16 MR. BUTLER: I haven't even thought about it, Your
17 Honor, let me -- can I confer just a minute?

18 THE COURT: Yes. My plan would be to enter a
19 judgment on those claims for 85 percent of the judgment. I
20 don't think there would be a distinction between the wrongful
21 death and the estate claims.

22 MR. LOWREY: I think Mr. Butler is going to tell you
23 that we agree with the Court.

24 THE COURT: All right and then for the punitives,
25 it's my understanding the judgment will reflect the entire

1:38:22PM 1 amount and then the state will have some kind of claim or lien
2 with regard to 75 percent of that and if counsel seeks a fee
3 for the recovery of the punitives you would have to make a
4 motion and the state would have to be heard on that; is my
5 understanding correct?

6 MR. BUTLER: The state will file something claiming
7 75 percent, the statute is very clear, what the state gets is
8 after the deduction of attorneys fees.

9 THE COURT: But I have to approve that; correct? Or
10 not, if you don't reach an agreement with the state?

11 MR. BUTLER: No, I don't think the state has any
12 right to disagree with attorneys fees.

13 THE COURT: Okay. I just want to make sure I don't
14 have to do anything with the fees; correct?

15 MR. LOWREY: That's right.

16 THE COURT: I just enter the judgment for the amount
17 they awarded.

18 MR. BUTLER: The state may disagree with you, but I
19 don't think they do.

20 THE COURT: That's how we will enter judgment and
21 then the timing of any post-judgment motions will be what's
22 ever in the rules; anything else we need to do today from the
23 Plaintiff?

24 MR. BUTLER: Your Honor, could you tell the Jurors
25 they are free to talk to the lawyers and the family members if

1:39:39PM 1 they want to?

2 THE COURT: I will, I typically tell them that.

3 Anything else from the Defendants today claim?

4 MR. EADY: No, Your Honor.

5 THE COURT: All right we are adjourned.

6 (Proceedings concluded.)

7 END OF RECORD

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CERTIFICATE OF OFFICIAL REPORTER

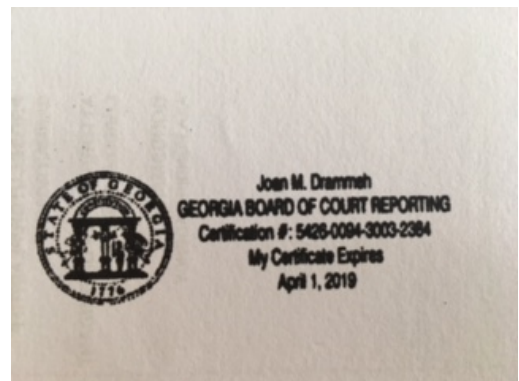
I, Joan Drammeh, Federal Official Court Reporter, in and for the United States District Court for the Middle District of Georgia, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 3RD day of MARCH, 2025

Joan Drammeh

JOAN DRAMMEH, CVR, CCR
FEDERAL OFFICIAL COURT REPORTER

MY COMMISISON EXPIRES:
APRIL 1, 2026



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